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IOWA JOURNAL

THE IOWA JOURNAL  
OF  
HISTORY AND POLITICS

JULY Nineteen Hundred Three  
Volume One : Number Three

1  
pt.2

1903  
July-Dec.







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It was claimed that this apportionment should divide the inhabitants of the State in groups, or districts, as nearly equal as practicable; that the assembly districts should be bounded by county, precinct, town, or ward lines, and that

<sup>1</sup> Art. 4, Sec. 3.

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## THE WISCONSIN GERRYMANDERS OF 1891, 1892

### A CHAPTER IN STATE CONSTITUTIONAL HISTORY

On the eleventh of November, 1891, the Board of Supervisors of Adams county in the State of Wisconsin instructed the District Attorney of that county to institute proceedings in the courts of the State to the end that judgment might be rendered, declaring null and void the act of the legislature of 1891 which apportioned the State into senatorial and assembly districts, on the ground that this apportionment invaded the rights of the people by depriving them of equal representation in the legislative branch of the government, that it aimed to substitute the will of the minority for that of the majority, and that its provisions were unconstitutional and, therefore, directly subversive of representative government. The population of the State having been ascertained by the federal enumeration of 1890, as required by the State Constitution,<sup>1</sup> it became the duty of the legislature to apportion and to redistrict the members of the Senate and Assembly according to the number of inhabitants, excluding soldiers and officers of the United States army and navy, and Indians not taxed.

It was claimed that this apportionment should divide the inhabitants of the State in groups, or districts, as nearly equal as practicable; that the assembly districts should be bounded by county, precinct, town, or ward lines, and that

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both assembly and senatorial districts should consist of compact territory—the object of the constitutional provision for apportionment being to secure a practical re-arrangement and re-adjustment of the assembly and senatorial districts with reference to changes in the number of inhabitants from time to time, and as far as possible to maintain equality of political power and rights between the inhabitants of these various political subdivisions.

In forming these districts, local interests unified by the acquaintance and associations of their inhabitants were to be conserved as far as practicable. By the census of 1890 it appeared that the total population of the State was one million six hundred and eighty-six thousand (1,686,000). The State Constitution limited the number of assembly districts to one hundred, and the number of senatorial districts to thirty-three. This limitation of the membership of the two houses, therefore, fixed the units of representation at sixteen thousand eight hundred and sixty-eight inhabitants in an assembly district, and at fifty-one thousand one hundred and seventeen in a senatorial.

The act of Assembly of 1891 violated these constitutional provisions and duties, as was shown in its apportionment of representation. Not only was the unit of representation exceeded in many districts and diminished in others, but the assembly district in many cases was made to consist of counties not forming a compact territory, and to include towns outside of these counties. One district was one hundred and three miles in length. In one instance between two assembly districts there was a difference in population of thirty thousand three hundred and twenty-five inhabit-





ants. Other variations were flagrant. In one case there was an excess, over the unit of representation, of fourteen thousand seven hundred and ninety-nine persons; of sixteen thousand nine hundred and seventy-five persons in another; and of twenty-one thousand nine hundred and thirty-three in a third; while in others the population fell below the unit to the number of five thousand seven hundred and forty-nine in one, to twelve thousand six hundred and seventy-six in a second, and to thirteen thousand three hundred and fifty in a third.

The apportionment also changed the senatorial districts throughout the State so as to prevent large numbers of electors, who had participated in the election of State senators in 1888, from participating in the election of senators in 1894; while it permitted other electors, who had participated in the election of State senators in 1890, to participate again in such an election in 1892. The effect of this rearrangement of the senatorial districts was to disfranchise one-fifth of the total population of the Commonwealth.

In order to prevent an election under the act of 1891, the supervisors of Adams county sought to enjoin the Secretary of State from issuing writs for the next general election on the eighth of November, 1892, when members of Assembly, and State senators from the even numbered senatorial districts, would be elected in accordance with the terms of the act. Unless restrained by an injunction, issued by the Supreme Court of the State, the Secretary would issue the writs; in which event it was declared that the electors of Adams county and its inhabitants and the inhabitants of the State would be greatly injured in their political powers,





rights, and liberties as granted them by the Constitution. In order that the case might be heard and determined without delay, the Adams county supervisors presented their petition for the injunction in the Supreme Court of the State and averred the invalidity of the act of apportionment of 1891. The District Attorney of Adams county, therefore, became the petitioner, for the supervisors, to the court, praying leave to bring action there in the name of the State, on the declaration of the Attorney-General of the State or in the name of the county of Adams, or of its District Attorney, or otherwise as the court might direct, to restrain the Secretary of State perpetually from making, publishing, and delivering the notices of election of members of the Senate and Assembly as directed by the objectionable law.

The Attorney-General, upon this relation of Adams county and of its District Attorney, with the consent of the Supreme Court, came before its justices at the capitol, in the city of Madison, in the name of the State and showed that, under the practice of the court and the laws of the State, persons and corporations having grievances and claiming the exercise of the prerogative powers of the court to secure their rights, could be heard in the court only through the office of the Attorney-General of the State or through other parties by the consent of the court. The Attorney-General was unwilling that any parties claiming an injury to their rights, remediable by a judgment of the court, should be denied the use of his official name, as the law officer of the State, simply because that officer might not fully be convinced of the just claim of the party to be relieved; therefore, without assenting or dissenting as to the





truth of the allegations of the complaint he brought the question of the constitutionality of the act before the court. Thus the State of Wisconsin became the plaintiff and the Secretary of State became the defendant in the case, and the first procedure was to determine whether or not the Secretary might be properly restrained from delivering notices of election of members of the Senate and Assembly under the act.

The original jurisdiction of the court was thus invoked to restrain the Secretary and his successor in office from giving notices of election of members of the legislature, on the ground that the act of 1891 was unconstitutional. The Board of Supervisors of Adams county adopted their resolution on the eleventh day of November, 1891. On the seventh of the following January the District Attorney of that county caused notice to be given to the Attorney-General of the State that, in obedience to the resolutions of the supervisors, he desired to institute an action in the Supreme Court in the name of the Attorney-General.

Eight days later the petition of the District Attorney of Adams county was filed, setting forth specifically the wrongs of which the complaint was made. On the day following, the security for costs was furnished by Adams county; on the twenty-first, the Attorney-General notified the attorney for the petitioner that application has been made to the Supreme Court to begin an action for the purposes prayed for in its petition; and on the second of February the court granted leave to bring suit.

The Secretary of State was required by law<sup>1</sup> to make out

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<sup>1</sup> Wisconsin *Laws*, 1883, Sec. 1, chap. 327.





a notice in writing, between the first day of July and the first of September in each year in which members of Assembly and State senators were to be elected for a full term, stating what senators were to be chosen at the next election, specifying the districts in which they were to be elected, publishing a copy of the notice in a newspaper printed in the capital once a week until the day of election, and also transmitting a copy to the clerk of each county in which an election was to be held.

To the complaint filed by the plaintiff answer was made by the respondent—the Secretary of State—that the complaint did not show that the District Attorney of Adams county had any interest in the subject matter which would entitle him to a standing in court to petition for a relief from a real or supposed grievance; nor had the court any jurisdiction in the case; nor did the complaint state wrongs recognizable in a court of equity; and finally, that the complaint failed to show that the act of 1891, either in letter or in spirit, was any violation of the Constitution of Wisconsin.

The question on which the action of the court turned was whether the subject matter of the complaint was one affecting the sovereignty of the State, its franchises, or its prerogatives.<sup>1</sup> The question at issue, therefore, involved the jurisdiction of the court and the unconstitutionality of the law. The jurisdiction of the court depended upon its powers under the Constitution of the State, which vested original jurisdiction in the court to issue writs of *habeas corpus*,

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<sup>1</sup>State *Ex rel. Drake vs. Doyle*, Sec. State, 40 Wis. 186; Atty. Gen. *vs. Eau Clair*, 37 Wis. 442.





*mandamus*, *injunction*, *quo warranto*, *certiorari*, and other remedial and original writs. The constitutional provision that the court should have power to issue these writs and to hear and determine them conferred the fullest jurisdiction.<sup>1</sup> All judicial power in matters of law and equity are lodged in the courts.<sup>2</sup> The Constitution did not define any of the terms describing the above mentioned writs. The full meaning of its language had to be ascertained by an examination of the decisions of the court itself and of other courts.

There was slight doubt of the power of the court to issue a writ of *quo warranto*. It had been issued in an action where an information had been filed charging the defendants and others with exercising the powers of banking without authority of law.<sup>3</sup> So, too, the writ had been issued to determine what person had been elected Governor of the State.<sup>4</sup>

In cases in which State officers had been clothed with power under the Constitution to perform certain administrative acts, the original jurisdiction of the court had been exercised in issuing a writ of *certiorari*. So a State Superintendent of Instruction had been commanded to send up for review his proceedings in determining upon an appeal a question relating to the division of a school district;<sup>5</sup> and the writ had been issued to affirm his action in reversing, on

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<sup>1</sup> Wis. Con., Art. 7, Sec. 3.

<sup>2</sup> Art. 7, Sec. 2.

<sup>3</sup> Atty-Gen. *vs.* Blossom, 1 Wis. 317.

<sup>4</sup> Bashford, relator, *vs.* Barstow, respondent, 4 Wis. 567; also cases quoted in Simmons' *New Wisconsin Digest*, 1, p. 716, Col. 2. part 2.

<sup>5</sup> State *Ex rel.* Morland *vs.* Whitford, 54 Wis. 150; 6 *Political Science Quarterly*, 493.





appeal, the determination of the district school board that a certain child was not a resident in a school district in the sense that he was entitled to the privilege of attending the public school in that district *gratis*.<sup>1</sup>

The ministerial action of State officers had been controlled through the exercise of the original jurisdiction of the court by means of a writ of *mandamus*, as when a Secretary of State had been compelled to revoke the license of a foreign insurance company,<sup>2</sup> and when a writ was invoked on behalf of the State as a purely prerogative right in matters *publici juris* it was held that the court had no discretion and that the writ goes *ex debito justitiæ*.<sup>3</sup> By this writ a Secretary of State had been compelled to audit a claim, and it was held that the court had a right to direct him as to the question of interest allowed.<sup>4</sup>

Through this writ the court could require the Board of State Canvassers to determine, in accordance with law, which one of the candidates for the office of representative in Congress was entitled to a certificate of election.<sup>5</sup> So by writ of *mandamus* the Secretary of State, State Treasurer, and Attorney-General, *ex officio* land commissioners, had been compelled to issue patents for State lands to certain petitioners.<sup>6</sup>

<sup>1</sup> State *Ex rel.* School Dis. *vs.* Thayer, Supt., 74 Wis. 150.

<sup>2</sup> State *Ex rel.* Drake *vs.* Doyle, Sec. State, 40 Wis, 175.

<sup>3</sup> State *Ex rel.* Continental Ins. Co. *vs.* Doyle, Sec. State, 40 Wis. 220, 236.

<sup>4</sup> State *Ex rel.* Sloan *et al.* *vs.* Warner, Sec. of State, 55 Wis. 271.

<sup>5</sup> State *Ex rel.* McDill *vs.* Board of State Canvassers, 36 Wis. 498.

<sup>6</sup> State *Ex rel.* Com. Pub. Lands, 60 Wis. 344; 70 Wis. 627; 73 Wis. 211.





From these decisions it was claimed that a State officer was not clothed with discretion in the performance of official duty; that his action would be reviewed by the court, which would compel him to perform his duty according to law; and that in all cases the court would interpret the law and the Constitution and compel action accordingly.

In all matters *publici juris* affecting the sovereignty of the State, its franchises, or prerogatives, or the liberties of the people, the writ of injunction issues as a matter of strict right and duty, and the court had no more discretion to withhold it to restrain violation of public right than to withhold *mandamus* to enforce public duty.<sup>1</sup> The phrase "liberties of the people" in judicial sense signifies the aggregate political rights and franchises of the people of a State at large.<sup>2</sup>

It was claimed that the cases involving the apportionment of the State under the act of 1891 affected the liberties of the people; that the provisions of the law, if carried out by the Secretary of State, would violate the Constitution and deprive a large portion of the inhabitants, that is, electors of the State, of an equal and just proportion of political power and right in the choice of representatives in the legislature; in which case the legislative body would restrain the liberty of every citizen of the State. With equal right it might change the laws relating to inheritance and the jurisdiction of property. It might raise or lower the rates of taxation; or largely increase the number of officials in the State and

<sup>1</sup> *Atty-Gen. vs. Railways*, 35 Wis. 425 and 595; *State Ex. rel. Atty-Gen. vs. Eau Clair*, 37 Wis. 400.

<sup>2</sup> *In re Pierce*, 44 Wis. 441.





the expense of maintaining them; or determine the fees of all officials who enforced the mandates of the court.

From this review of these cases it was maintained that there could be no controversy over the original jurisdiction of the court to control the action of the Secretary of State in the discharge of his duties, which, as in giving notice of election, were purely ministerial and involved no element of discretion.<sup>1</sup> There was no doubt that, were the act of 1891 a constitutional provision, and were the Secretary of State inclined for any reason to disregard it, and were he to refuse to call the coming election under the law, the court would send its mandate to him to compel him to obey the law. If it appeared that the law which he proposed to obey was clearly in violation of the Constitution, the court was under a solemn duty to act with equal promptness in restraining him from doing a great public wrong.

Chief-Justice Ryan had distinguished between the action on a writ of injunction and that of *mandamus*. *Mandamus* commands; injunction forbids. *Mandamus* compels duty; injunction restrains wrong; and there is sometimes a doubt which is the proper writ to issue. It was safe to assume that the Constitution gives injunction to restrain excess in the same class of cases in which it gives *mandamus* to supply defect.<sup>2</sup>

Nor were there wanting cases from the supreme courts of other Commonwealths which illustrated the doctrine. The Auditor of the State of Ohio had been enjoined for the pur-

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<sup>1</sup> Martin, relator, *vs* Doyle, Sec. State, 38 Wis. 92; State *Ex rel. vs* School Dis., 65 Wis. 631.

<sup>2</sup> Railway Cases, 35 Wis. 520.





pose of protecting a United States bank in that State in the exercise of its franchises, which were threatened in 1824 by an act of the State legislature in violation of the Constitution of the United States.<sup>1</sup>

So the Governor and other State officers acting as a Board of Liquidation had been restrained from carrying out the provisions of a State law in liquidating an indebtedness claimed to be due from the State, on the ground that such action would impair securities already issued and thus violate the obligation of the contract.<sup>2</sup>

In general the United States courts clearly established the doctrine that in the exercise of equitable jurisdiction the officers of a State could be enjoined from proceeding to act under a State law which violates the Constitution of the United States and invades the rights of citizens of other States.

This feature of government, the power of courts to declare a law or a statute unconstitutional, is peculiar to the American political system and may be called a discovery in civil government. A fundamental difference between the governmental system of Great Britain and that of the United States is illustrated in the place and function of the judiciary in the American system, to which the British system has no corresponding part. The law in the United States is fundamentally set forth in a written Constitution "established and ordained by the people of the United States."

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<sup>1</sup>*Osborn vs U. S. Bank*, 9 Wheaton 739; affirmed in *Davis vs Gray*, 16 Wallace, 803.

<sup>2</sup>*Board of Liquidation vs. Maocmb*, 92 U. S. 531; Mecham Pub. Off. Sect. 997.





The Constitution of the United States and the laws and treaties made under it are the supreme law of the land. Because of this supremacy of the Constitution the several federal States as civil corporations maintain their existence by express grants. The executive, legislative, and judicial powers of the United States and of the several States are subordinated to this Constitution and are controlled by it. Neither the President of the United States, nor Congress, nor the Governor of a State, nor its legislature, nor its courts can legally exercise power inconsistent with the provisions of the federal Constitution. Every State legislature, therefore, becomes a subordinate law-making body, its laws being of the nature "of by-laws, valid whilst within the authority conferred upon it by the Constitution, but invalid or unconstitutional if they go beyond the limits of such authority."<sup>1</sup> All the power of the English state is concentrated in the imperial Parliament, and all departments of government are legally subject to absolute parliamentary control. The British judiciary does not rank with the British Parliament as a coördinate branch of government, and it might be modified, or even abolished, by act of Parliament without violation of the British principles of constitutional government.

In America, on the contrary, the federal judiciary is coördinate with the President and with Congress, and the State judiciary with the Governor and the legislature. The coördination of the powers of the judiciary and the executive and legislature is usually set forth in a State Constitution, just as the coördination in analogous federal mat-

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<sup>1</sup> Dicey, *The Law of the Constitution*, Lecture IV.





ters is set forth in the Constitution of the United States. By means of the written Constitutions of the State, and of the United States the duties and powers of a judge, whether federal or State, are clear. The State is, therefore, bound to consider as void every act of the legislature inconsistent with the State Constitution or with the Constitution of the United States.

A State judge has before him two Constitutions, that of the State and that of the United States. By them the process of government, both in the Commonwealth and in the United States, is made practically certain and clear, and one of the chief objects of government is secured. This organization of government in the State does not merely produce a system of checks and balances in which the coördinate departments of the Commonwealth or of the United States are, as it were, pitted against each other for the purpose of conserving the interest of the State, though often conceived as the intended expression of such checks and balances. The existence and coördination of the three departments of government are rather to be conceived as functional, and as the three-fold aspect of the civil unit. The unit is representative and consists of powers delegated by the sovereign power in the State. The entire civil provision is, therefore, a device whereby to conserve the interests of the civil organism; to identify them; and to free from uncertainty all civil procedure in which they are involved.

In a representative government like our own, any confusion in the terms by which its powers are delegated must cause civil discord and prevent the people from enjoying all the harmonious results which daily give a definition not





only of popular rights and liberties, but also of the normal progress of the State in its industrial affairs.

The judicial system in American government is illustrative of one of the most remarkable evolutions in the modern state; and the applications of its functions in determining the harmonious development of civil institutions in America constitute, perhaps, the primary evidence of the claim of representative government to a future of wide extension in the world.

The question whether the apportionment of representation in Wisconsin in 1891 was constitutional raised far more than a point of technical procedure in a court of law. An act of apportionment affects all the political interests of a State and its citizens, and is of such fundamental importance as to conserve and correlate or to imperil them. The interpretation of the validity of that act must necessarily test the nature of American representative government. In the course of that interpretation not only appears the power of the legislature to make such an apportionment as interpreted by the coördinate branch of the government, the supreme court, but there also appear the principles of government upon which such an apportionment must be made; the application of these principles by the legislature in a legislative act; the interpretation of that act by a coördinate branch of that government; the duties of ministerial officers in the State in the execution of the terms of that act; or, fundamentally, and in brief, the relations which exist between the three representative agencies in the State, the executive, the legislative, and the judiciary.

An act apportioning representation thus becomes a test of





the quality of representative government in a free commonwealth; and in its comprehensiveness, in its political effect, in the relations in which it places one elector to another, and groups of electors to other groups, in its effect in equalizing the representation of the citizens of the State, it is a process which exemplifies the character of the administration of public affairs. Tested by the principles of representative government, an act apportioning representation is the evidence of a sound or of an unsound condition of the State. The judicial department, therefore, becomes the one tribunal through which the unlawful assumption of power by the legislative body can be prevented and by which the action of all legislative bodies can be restrained according to the provisions of a written Constitution.

The relation between courts of justice and the legislative authority is clearly laid down in the *Federalist*. "There is no position," says Hamilton, "which depends on clearer principles than that every act of a delegated authority, contrary to the tendency of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal, that the servant is above his master, that the representatives of the people are superior to the people themselves, that men acting by virtue of powers delegated may do not only what their powers do not authorize but what they forbid. If it be said that the legislative body are themselves the constitutional judges of their own powers and that the construction they put upon them is conclusive upon the other departments, it may be answered that this cannot be the





natural presumption where it is not to be collected from any of the provisions in the Constitution. It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will for that of their constituents. It is far more rational to suppose that the courts were designed to be the intermediate body between the people and the legislature, designed, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. The Constitution is in fact and must be regarded by the judges as the fundamental law. It, therefore, belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from a legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution should be preferred to the statute; the intention of the people to the intention of their agents. Nor does this conclusion by any means suppose the superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws rather than by those which are not fundamental."<sup>1</sup>

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<sup>1</sup> The *Federalist*, LXXVIII.





In the Massachusetts Convention of 1820, Webster, in discussing the independence of the judiciary, further illustrated the fundamental ideas thus set forth by Hamilton in the *Federalist*. "It can not be denied," said Webster, "that one great object of written constitutions is to keep the departments of government as distinct as possible and for this purpose to impose restraints designed to have that effect, and it is equally true that there is no department in which it is more necessary to impose restraints than the legislative. The tendency of things is almost always to augment the power of that department in its relation to the judiciary. It is the theory and plan of the Constitution to restrain the legislature, as well as other departments, and to subject their acts to judicial decision whenever it appears that such acts infringe constitutional limits. The Constitution is the supreme law. Any act of the legislature, therefore, inconsistent with the supreme law, must yield to it; and any judge seeing this inconsistency, and yet giving effect to the law, would violate both his duty and his oath."<sup>1</sup>

In illustration of the same principle, Chief-Justice Marshall declared that the object of a written Constitution is not only to define and limit the powers of the legislature, but also to prevent those limits from being mistaken or forgotten.<sup>2</sup>

No principle in American law is better established than that of the independence of the judiciary and its right and duty to decide the constitutionality of a law. The application of this principle in the case affecting the constitution-

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<sup>1</sup> Webster's *Works*, III, 29, 30, 31.

<sup>2</sup> *Marbury vs. Madison*, 1 Cranch 137.





ality of the Wisconsin apportionment act of 1891 illustrated the right and power of the supreme court of a State to enjoin the Secretary of State from making and publishing notices for an election under such an act. The question of jurisdiction was, therefore, settled. But was the act itself unconstitutional?

In order to determine whether or not the act was unconstitutional, it became necessary to examine the provision of the State Constitution concerning apportionment, and in such an examination the debates in the convention which framed that Constitution are primary evidence. The article in the Wisconsin Constitution<sup>1</sup> on the apportionment of representation differed somewhat from the propositions on the subject originally introduced in the convention. It was first proposed that the members of Assembly should be chosen by single districts, annually, on the day of the general election, by the qualified electors of the districts, and that Senators should be chosen for two years at the same time and in the same manner as members of Assembly. Senators were to be chosen in each senatorial district and, at the first session of the legislature, were to be divided by lot into two equal classes; the seats of the first class to be vacated at the expiration of the first year, and of the second class at the expiration of the second year, so that one-half of the Senate should be chosen annually.<sup>2</sup>

This provision created what is known as the double district system—two senators in each district—and illustrates

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<sup>1</sup> Wisconsin Const., Art. iv, Sec's. 3, 4, 5.

<sup>2</sup> *Journal of the Wisconsin State Constitutional Convention*, Madison, W.T. Tenney, Smith and Holt, Printers, 1848, p. 117.





the persistency of the ideas held by the framers of Constitutions in the northern States, that local representation should always be preserved. No restrictions were placed upon the legislature in making either assembly or senatorial districts. In the discussion of this apportionment, an amendment requiring that districts containing the requisite population should be as compact as possible was adopted without dissent.<sup>1</sup> Whether the members of Assembly should be elected from single districts within a county, or on a general county ticket, was finally determined by providing for single districts.

In order to prevent gerrymandering, it was decided that the convention itself should make the first apportionment and not leave it either to the legislature or to the county boards. The senatorial districts were to be of convenient and compact territory,<sup>2</sup> and no assembly district was to be divided in the formation of a senatorial district.

In 1881 the Constitution of Wisconsin was amended and the sessions of the legislature were changed from annual to biennial. The amendment provided that members of Assembly should be chosen biennially by single districts; that these districts should be bounded by county, town, ward, or precinct lines, should consist of contiguous territory, and be in as compact form as practicable. Senators were to be elected by single districts of convenient, contiguous territory, and, as before, no assembly district was to be divided in the formation of a senatorial district.

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<sup>1</sup> *Id.* p. 255.

<sup>2</sup> "Contiguous territory" is the wording of the clause.





Therefore, in order to prove the unconstitutionality of the act of 1891 it was necessary to show that its apportionment did not comply with the provisions of the Constitution. The excess over the unit of representation in certain districts, and the deficiency in other districts, were exhibited to prove the plain deviation. It was shown also that in the formation of the districts the constitutional provision for compact territory had been violated.<sup>1</sup>

The intention of the framers of a State Constitution is best known from the debates in the convention which framed it. The debates in the Wisconsin convention of 1848 show that the system of apportionment, finally incorporated in the Constitution, was to preserve county lines, which would follow the adoption of the single district system. The fundamental idea in representation in America, that each county is a corporate community constituting a representative unit having communal interests, has been illustrated repeatedly in the formation of all the State Constitutions, and was at the basis of the theory of representation in Wisconsin. The county should be viewed in the light of a family. It was necessary that individual rights should be defined and that no difficulty be left for the head of the family to settle<sup>2</sup>—an idea patriarchal in antiquity, and early illustrated in the civil organization of New England as well

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<sup>1</sup>The excess or the deficiency in population in the districts, with maps showing the union of counties or towns under the Act of 1891, with much historical and explanatory matter, are given in an exhaustive pamphlet on *The Gerrymander of Wisconsin, A Review of the Legislative Apportionment Act of 1891*, by A. J. Turner, of Portage, Wisconsin.

<sup>2</sup>*Debates, Wisconsin Convention, 1848.*





as of the middle and southern Colonies. Each organized county was conceived as having separate interests; as being a small republic that could not be properly represented except by its resident citizens.<sup>1</sup> It may be considered as settled in American government that the county, organized as a corporation, is the fundamental unit of representation, and that a county can be represented only by its own citizens who reside within its boundaries and who are identified with its commercial interests.

Although Webster, in the Massachusetts convention of 1820, denied the legal and political claims which were put forward by Judge Levi Lincoln and others in defence of corporate representation, it must be admitted that the course of the evolution of representative government in this country has brought out clearly and indisputably the legal and political claims of the county to this fundamental place as a political corporation. There was a particular application of this idea in the making of the Wisconsin Constitution of 1848, expressed in the language of a member of the convention, "that population should not be the basis of representation," "that territory should be the basis in particular, but population in the main,"<sup>2</sup> implying that one county, though small, should be entitled to representation as well as another though large, but that the unit of representation should be a number of people within an organized territory, that is, within a county. Therefore, as the county lines always partially coincided with the town and ward lines, the meaning of the word county in the Constitution would be

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<sup>1</sup> *Id.* p. 385.

<sup>2</sup> *Debates*, p. 390.





wholly lost if, in the apportionment of representation, these lines were disregarded. This interpretation conforms to that principle of constitutional law laid down by Justice Cooley, that effect is to be given if possible to the whole instrument, and to every section and clause, and in favor of a construction which will render every word operative.<sup>1</sup>

What power authorizes an apportionment of representation to be made? Does it reside in the legislature, or is the legislature to be an agent in exercising that power? A power affecting so fundamentally the interests of the people of the State must be defined in a written Constitution, in order to avoid the civil confusion which its abuse would produce. An apportionment of representation by the legislature, therefore, involves the powers of the legislature, and the relative authority of a legislative act and of the Constitution itself. Such an apportionment must have for its original authority the will of the sovereign power in the State, which, in the American political system, resides in the people and not in any branch or department of government.<sup>2</sup> The Constitution, therefore, limits the power of the legislature. It does not merely direct what the legislature shall do, but forbids the legislature to do certain things.<sup>3</sup> In construing a Constitution, the same rules in the interpretation of language are applicable as in construing the acts of a legislature.<sup>4</sup>

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<sup>1</sup> Cooley, *Constitutional Limitations*, 5th ed., pp. 70-71.

<sup>2</sup> *Bashford vs. Barstow*, 4 Wis. 567.

<sup>3</sup> *State Ex rel. Brayton vs. Merriman*, 6 Wis. 14; *Varney vs. Justice*, 86 Ky., 569.

<sup>4</sup> 1 S. & B. Am. Stat. p. 35.





The Constitution and a law passed by a legislature are not of the same rank; when they conflict, the law must give way to the Constitution. It is the function of the courts to determine whether such conflict exists.<sup>1</sup>

The rapid strengthening of the national government has attracted to it the attention of statesmen and of writers of government and jurisprudence, but little attention has been given to the development of government in the Commonwealths; yet without a knowledge of this development it is impossible to understand the origin, nature, and evolution of American democracy. Of the principal aids in our understanding of the government of the Commonwealths there exists the work of the constitutional conventions, much of which exists in print; the acts, public and private, of State legislatures, nearly all of which are printed; the ordinances of cities, and the reports of judicial decisions in the superior courts of record in all the States. In the determination of constitutional questions the proceedings in constitutional conventions are primary evidence, and it may be laid down as fundamental in American government that in the interpretation of a State Constitution the meaning of words as construed by the people at the time of its adoption and the remarks made by the members of the convention which framed the fundamental law are strong primary evidence.<sup>2</sup>

The principle has been touched on by Justice Cooley, that every Constitution has a history of its own which is likely

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<sup>1</sup> Cooley, *Constitutional Limitations*, 5th ed., p. 55.

<sup>2</sup> *Railway Co. vs. Taylor Co.*, 52 Wisconsin 37, 63, 64. Cooley, *Constitutional Limitations*, p. 81. *Bay City vs. State Treasurer*, 23 Mich. 506.





to be more or less peculiar, and unless interpreted in the light of its history is liable to be construed to express purposes which were never in the minds of the people when agreeing to it. In the interpretation of a Constitution, therefore, a court of law keeps in mind this history and the times and circumstances under which the Constitution was formed, in order to "enforce the law which the people have made and not some other law which the words of the Constitution may possibly be made to express."<sup>1</sup>

It follows that when a Constitution prescribes the manner of making an apportionment of representation, it is, in effect, a prohibition of any manner save that prescribed.<sup>2</sup> An act of a legislature evading or invalidating the purpose of the Constitution, whether expressed or implied, is, therefore, void.<sup>3</sup> A provision of the Constitution which declares the manner in which an apportionment should be made must be construed according to the ordinary meaning of words as understood at the time when the Constitution was made, and if by clear expression, or by implication, the legislature be excluded from pursuing any course, such limitation is as valid as if the legislature were prohibited from that course by a special provision of the Constitution. The effect is the same as if the legislative act were repugnant to such a special provision.<sup>4</sup> A constitutional provision is not merely directory, to be obeyed at the discretion of any of the departments of the government;<sup>5</sup> such a provision is mandatory.

<sup>1</sup>People *vs* Harding, 53 Mich. 485.

<sup>2</sup>State *Ex rel.* Murphy *vs.* Barnes, 24 Florida 29.

<sup>3</sup>People *vs.* Albertson, 55 N. Y. 50.

<sup>4</sup>Page *vs.* Allen, Penn. State 338; S. C., 98 Am. Dec. 272.

<sup>5</sup>Hunt *vs.* The State, Texas and S. W. III. 233.





The legislature in making an apportionment must not deviate from the mandate of the Constitution; nor can it be conceived to have any discretion in the exercise of its powers in making an apportionment. It must proceed according to the plain interpretation of the language of the Constitution itself. It might be said that when a legislature lays off a State into congressional districts it exercises a political, discretionary power, for which it is responsible to the people. It may be asked what is the distinction between the political and the legislative power? The Constitution might have vested the power to make an apportionment of representation in the Governor, in the courts of law, or in a commission specially organized for the purpose.

In 1870 the people of Louisiana empowered the Governor and Secretary of State to "ascertain and fix the apportionment of the State for members of the first house of representatives." In Ohio, by the Constitution of 1850, the power for making such apportionment was vested in a board of State officers. In either case the power to district a State would be restricted by the Constitution itself. Legislative power extends only to the making of laws, and in its exercise it is limited and restricted by the paramount authority of the Federal Constitution and of State Constitutions. Political rights do not differ, as subjects of legislation, from any other rights of a free people. An apportionment of representation affects the interests of political parties, but such interests are in no instance cognizable under a State Constitution. In the administration of the affairs of a Commonwealth, its counties and towns are political subdivisions and are factors to be considered by the legislature in its acts.





The legislature which violates a restriction of the Constitution relating to these counties and towns, or one relating to their powers of local self-government, by depriving them of the right of self-government and the equality of representation, transcends its powers.

It is not enough that an apportionment of representation merely redistricts the State. The power of the legislature is not absolute in such an apportionment and the courts must determine its constitutionality. An apportionment act must be strictly construed; because the State Constitution expressly indicates the direction in which the legislature shall go in making such an apportionment. There are powers of the legislature under the Constitution which are not so restricted; but an examination of all the State Constitutions, from the earliest to the latest, discloses the gradual and closer definition of the process by which an apportionment of representation shall be made. Directly after the Revolution this definition of process began and it has continued until the present time with ever increasing precision, and consequently with limitation of the power of the legislature to apportion representation.

The whole weight of representative government falls upon the equality of representation. Any variation from a basis of equality will disturb the civil poise. This process of defining the duties and powers of a State legislature in apportioning representation is from uncertainty at the close of the eighteenth century to certainty at the close of the nineteenth, and the language of the Commonwealth Constitutions themselves demonstrates that it was the intention of the framers that the power of apportionment should be





strictly construed. A certain definition of the powers of each branch of the government; a certain definition of the rights which the people have delegated to their representatives; a certain definition of what rights they have retained unto themselves;—these can be made by a written Constitution. The limitation on the power of State legislatures, which has developed so rapidly in the later State Constitutions in the numerous inhibitions on special legislation, are of a similar nature although not of a similar rank with the limitation upon the legislature in making an apportionment of representation.

Early in our national history, Mr. Justice Paterson, of the Supreme Court of the United States, defined the relation of legislatures to the Constitution: they are the creatures of the Constitution; they owe their existence to the Constitution; they derive their powers from the Constitution. It is their commission, and, therefore, all their acts must be conformable to it or else they will be void. The Constitution is the work, the will, of the people themselves in their original sovereign, unlimited capacity; law is the work, the will, of the legislature in their derivative, subordinate capacity. The one is the work of the creator, the other of the creature.<sup>1</sup>

If an act of the legislature districting a State is declared unconstitutional, it does not follow that the court would thereby make an apportionment act and substitute its judgment for that of the legislature. Such an assumption confuses two departments of government. The court in declaring a law unconstitutional does not thereby make a new law. It is the function of a court of justice to declare the law.

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<sup>1</sup>Van Horn *vs.* Dorrance, 2 Dallas 308.





It is the function of a court to determine whether the constitutional provision for an apportionment of representation has been obeyed by a legislative act brought before it for adjudication by due process of law.

It was contended by the learned counsel who represented the State against the Secretary of State in the case involving the Wisconsin apportionment of 1891, that the act violated the provisions of the Constitution, and that the court had jurisdiction to determine not only the constitutionality of the act, but also to issue an injunction prohibiting the Secretary from issuing notices of election under the act.

The decision of the court was long and able. It affirmed its own jurisdiction in the case, which meant that the question involved was one *publici juris*, presenting a case in which the interposition of the court was required to preserve the State's prerogative of legislation, because the Senate and Assembly elected under an unconstitutional apportionment act would not be bodies which could lawfully exercise the prerogatives of legislation. The court had original jurisdiction because the apportionment act, if unconstitutional, would deprive the people of equal representation in the legislature, a right guaranteed them by the Constitution.

Nor was the jurisdiction of the court an invasion of the constitutional provisions of the legislative department, but an inquiry into the constitutionality of the law. The case concerned matters strictly *publici juris* in which no one citizen had any special interest other than those common to all citizens. The case was, therefore, properly brought by the Attorney-General in the name of the State on a complaint





made to him by a private citizen;<sup>1</sup> nor was it necessary that the private citizen should be joined with the Attorney-General in the complaint, nor that it be shown that either he or that citizen had any special interest in the case.

An act of the legislature apportioning the State into senate and assembly districts is passed in the exercise of its legislative and not of its political power, and, therefore, the constitutionality of such an act is the subject of judicial inquiry. The Secretary of State is a ministerial officer, and his duty in respect to the notices of the election of members of the Senate and of the Assembly under an apportionment act are ministerial, not political; if such an act is unconstitutional, he may be restrained by injunction from proceeding under it.

The provisions of the Constitution requiring the legislature to apportion the State are mandatory and not subject to legislative discretion. And when the Constitution declares that assembly and senatorial districts shall be bounded by county, precinct, town, or ward lines, and shall consist of contiguous territory in as compact form as practicable, the integrity of county lines must be preserved and the formation of a district partly out of one, or of more than one county, or of a fraction of another county, or of fractions of several counties, can not be made, and such a law violating the Constitution will be void.

Such a law further violated the Constitution in its apportionment of population, for the Constitution required the apportionment of the State to be according to the number of inhabitants. As the number of senators and of members

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<sup>1</sup> A. J. Turner, Esq., of Portage, Wisconsin.





of Assembly are determined by the Constitution, the unit of representation could, therefore, be known upon the basis of the federal census. An apportionment by which the most populous senate district contained sixty-eight thousand and the least populous thirty-seven thousand, and by which the most populous assembly district contained thirty-eight thousand and the least populous six thousand, was not an apportionment according to the meaning of the Constitution. The several provisions of the act apportioning the State were largely dependent on each other; therefore, if some of the districts were apportioned unconstitutionally the entire act would be void.<sup>1</sup>

The court in this celebrated case not only entered into an examination of its own jurisdiction, but also with equal learning set forth several principles of representative government in America. The question before the court affected the integrity and stability of the political system. An apportionment act affects no one class of people, no one locality, but all the people of a State in their collective and individual rights and interests. Such an act can not be declared void because it was supposed to violate the natural, social, or political rights of the people, unless it was made clear that the act was violative of rights guaranteed or protected by the Constitution. It would not be sufficient to show that the act violated principles of government unless these principles were placed beyond legislative encroachment by the Constitution itself. Nor was it sufficient that

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<sup>1</sup> State *Ex rel.* Atty-Gen. vs. Cunningham, Sec. of State, Circuit Court of Wisconsin, March 22, 1892. Northwestern Reporter, Vol. 51, 725.





the act in a general sense was opposed to the spirit of the Constitution. The unconstitutionality of such an act consisted in its repugnance to the expressed provision of the Constitution and to those limitations necessarily or conclusively implied from it; for in all matters of unlimited discretion, or in matters involving only considerations of public policy, the determination of the legislature must be final and conclusive. The courts could not change it.

Nor could the act be held void because of any supposed improper motives or unconstitutional intentions of the legislative body which had passed it. Reasons of public policy forbade a judicial inquiry made with a view of defeating the operation of any public legislative enactment. The motives of the legislature are not the subject of judicial inquiry. Such an inquiry can only be made into the powers of the legislature under the Constitution. The ancient doctrine that the king can do no wrong applies to the motives of the legislative body, for it is never supposed that the legislature has acted improperly, unadvisedly, or from other than pure, public motives under any circumstances, when acting within the constitutional limits of its authority.

The rights to be guarded by an apportionment act are of such a character that provisions regarding them in the Constitution are to be construed as mandatory and not as directory merely. The language of a Constitution, therefore, was a proper subject for interpretation, under the general principle that effect is to be given to every clause or word of a statute, and that no word was to be treated as unmeaning if a construction could be legitimately found which would preserve it and make it effectual—a rule applicable with special





force to written Constitutions, in which the people are presumed to have expressed themselves in careful and measured terms corresponding in importance to the powers delegated, leaving as little as possible to implication.<sup>1</sup>

The entire constitutional history of Wisconsin showed that it was the intention of the makers of the Constitution of 1848 to avoid opening the door to gerrymandering. In consideration of all the facts and circumstances, and having due regard to the language of the Constitution, the court was compelled to the conclusion that the Constitution was not intended to permit the legislature to dismember any county in the formation of districts, but that the legislature was prohibited from placing one county, or more than one, and a portion of a county, or portions of two or more counties, in the same assembly district, and that such prohibitions were found in the constitutional provision which required that assembly districts should be bounded by county, town, or ward lines.

The principle of apportionment according to population was violated in the act of 1891. "The county is the primary territorial unit in the formation of assembly districts, and members of Assembly must first be apportioned to counties." There must, therefore, be substantial equality of representation in proportion to population as between all the different counties, and between districts composed of two or more counties.<sup>2</sup> As the assembly districts were the unit of civil measure, the senatorial districts could not be formed until the assembly districts had been properly ap-

<sup>1</sup> Cooley, *Constitutional Limitations*, p. 72.

<sup>2</sup> N. W. Reporter, Vol. 51, p. 744.





portioned. The act of 1891 was, therefore, unconstitutional and void.

Because of this adjudication the Governor of the State, on the first day of June, 1892, issued a proclamation convening the legislature in special session on the twenty-eighth day of the month, to apportion the State into senatorial and assembly districts.

The legislature assembled and apportioned representation in the State, but its act was as much in violation of the Constitution as the act which the court shortly before had declared unconstitutional and void, and this second apportionment act became the subject of judicial examination in the Supreme Court on the ground that, like the preceding act, it was unconstitutional. The apportionment of 1892 varied but little in its method from that of 1891. Although it apportioned the State according to the divisions of county, town, and ward lines, like the preceding act, it grouped the population unequally, so that the variation from the unit of representation was a deficiency of more than twenty thousand of the population in the fourth senatorial district and an excess, in the seventeenth district, of nearly fifteen thousand. Similar variations from the representative unit were made in the assembly districts.

Meantime a similar case of the violation of representation had arisen in Michigan,<sup>1</sup> and the Supreme Court of that State declared that the time had arrived for plain speech against the outrageous practice of gerrymandering which had become so common in the country. It had been too long suffered without rebuke and it threatened not only the

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<sup>1</sup> Giddings *vs.* Blackner, 52 N. W. Rep. 544.





peace of the people but the permanency of free institutions. The rights of the people could be saved by Congress alone, who could give them a fair count and equality of representation. Every intelligent school boy knew the motives of these legislative apportionments. "It is idle for the courts to excuse the act on other grounds, or to keep silent on the real reason, which is nothing more or less than partisan advantage taken in defiance of the Constitution and in utter disregard of the rights of the citizen."

The principle of apportionment was well illustrated by Webster, in 1832, in his report to the Senate on the apportionment of representation in the United States. A Constitution must be understood not as requiring an absolute relative equality, because that would be demanding an impossibility, but as requiring Congress to make an apportionment of representation among the several States according to their respective numbers as near as may be. That which cannot be done perfectly must be done as near perfection as possible. If exactness from the nature of things cannot be obtained, then the greatest possible approach to exactness should be made.<sup>1</sup> Congress is not absolved from all rule merely because the rule of perfect justice cannot be applied. In such cases the approximation becomes the rule, it takes the place of that very rule which would be preferable, but which is found to be inapplicable, and because it is an obligation of binding force; the nearest approximation to exact truth or exact right, when either cannot be reached, prevails in every case, not as a matter of discretion but as an intelligible and definite rule, dictated by justice and conforming

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<sup>1</sup> Webster's *Works*, III. p. 375.





to the common sense of mankind; a rule of binding force in each case to which it is applicable, and no more to be departed from than any other rule or obligation.<sup>1</sup> So it may be laid down as settled in State government that representation shall be apportioned to population as near as may be.<sup>2</sup>

It may also be laid down as a fundamental principle of American government that in apportioning representation the discretion of the legislature is limited by the mandates of the Constitution which are to be carried out as nearly as possible. The purpose of the written Constitution is to eliminate from legislation the element of mere arbitrary discretion. Otherwise the legislature will trample upon the Constitution, and the statute will take the place of the fundamental law of the Commonwealth. Equality of representation is a principle in American government; therefore it was never contemplated in a Constitution that one elector should possess more influence than another in the person of a representative or a senator. Each elector in the Commonwealth is possessed under the Constitution of equal power and influence, and such equality lies at the basis of free government. The right to equal suffrage is a high right exercised by a citizen in a free country, and equal representation is the expression of that right in the making and in the administration of the laws of the land. A written Constitution fixes the right of the elector beyond dispute. It reduces his rights and privileges to a certainty, of which a court of justice can take cognizance. The legislature cannot deprive him of his right to such equal representation.<sup>3</sup>

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<sup>1</sup> Story, *Commentaries*, II, 682, note, and Kent *Commentaries*, I, 231.

<sup>2</sup> *People vs. Cannaday*, 73, N. C. 198.

<sup>3</sup> Vol. 52, N. W. Reporter, 946.





It was argued, in defense of the second gerrymander in Wisconsin, that an equal apportionment of property was a sufficient equivalent for a variation in population in two districts—a doctrine which was a revival and a perversion of the doctrine of property as a basis of government advocated by Webster seventy years before. In this second decision, handed down by the Supreme Court of Wisconsin, on the seventh of October, 1892, the opinions in the previous case were re-affirmed, with the additional opinion that when a district with less population than another was given the same representation because of the greater value of the property in it and on account of the nature and character of its population and of its business interests, a constitutional apportionment of representation had not been made. Not only should such a district be bounded by county, town, precinct, or ward lines, and consist as far as practicable of contiguous territory in compact form, but the legislature in its apportionment should also make the districts as nearly as may be according to the number of inhabitants; an unequal districting was beyond the discretionary power of the legislature.<sup>1</sup>

The evil running through these unconstitutional acts was their assumption that the only limit to the discretionary power of the legislature, in making such apportionment, was the major and minor fractions of the unit of representation; in asserting a broad discretionary power in the formation of assembly districts by giving to the inhabitants of one assembly district three times the representative power pos-

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<sup>1</sup>State *Ex rel.* Lamb *vs.* Cunningham, Sec. of State, N. W. Reporter, Vol. 53, p. 35.





essed by another; and in the formation of senatorial districts by giving to the inhabitants of one of them more than twice the representative power possessed by the inhabitants of another. For such obnoxious standards the Constitution gave no warrant and would not bear such a construction.

The first Wisconsin case was the first in this country in which an entire apportionment act was passed upon by a court. The attorneys representing the interests of the Commonwealth were in great doubt whether the court would take jurisdiction of the case, but the court placed no obstacle in the way and the matter of jurisdiction proved to be a simple one. The case is also important as sustaining the right of a private citizen to bring an action *publici juris* without the consent of the Attorney-General.

The great significance of the judicial decisions in these cases implies that the power which a legislative body is compelled to exercise by the Constitution cannot be considered as discretionary. The constitutional rights of the citizen to equal representation and a just apportionment of representation in the Commonwealth are mandatory upon its legislature.

FRANCIS NEWTON THORPE

MT. HOLLY, NEW JERSEY

NOTE: The Wisconsin gerrymander of 1891 is the subject of a valuable pamphlet by A. J. Turner, of Portage, Wisconsin. Mr. Turner inaugurated the test case in the Supreme Court of the State. In 1893 Mr. Turner generously placed in my hands a copy of his pamphlet together with copies of the briefs filed by both sides in the Wisconsin gerrymander cases. Of counsel, in this case, among others, were Hon. William F. Vilas, in support of the constitutionality of the act of 1891, and Hon. John C. Spooner, against its constitutionality.

F. N. T.





## ANTHROPOLOGICAL INSTRUCTION IN IOWA

In the January number of THE IOWA JOURNAL OF HISTORY AND POLITICS the writer discussed the *Historico-Anthropological Possibilities in Iowa*. It is desirable now to ask how such anthropological possibilities are finding expression through the organized means of public instruction? To what extent has Anthropology been taught, or to what extent is it being taught? What agencies are active in disseminating it? Judged by these agencies, what is the estimate placed upon it by our educational authorities? Compared with the stress laid upon it by the national government and by some of our higher institutions of learning, where does Iowa rank?

The academic side of this inquiry is answered in the large by two articles from the pen of Dr. George Grant McCurdy, of Yale University. In these articles Dr. McCurdy gives the results of inquiries from the principal universities and colleges of Europe and the United States. He desired to learn the amount and character of instruction in, or of tendency toward, anthropological subjects.<sup>1</sup>

### IOWA WORKERS OF FORMER YEARS

In that aspect of Anthropology which has been most cultivated in Iowa it was shown, in the article referred to as having appeared in a previous number of THE IOWA

<sup>1</sup>See *Science* for December 22, 1899, and February 7, 1902.





JOURNAL OF HISTORY AND POLITICS, that much valuable information is at hand and much more is waiting to be uncovered by the diligence of students who should now presumably be working in this field. It was pointed out that in anthropological interests Iowa presents the finest of possibilities. Again, it is known that Iowa has produced more than her quota of original or pioneer workers. These investigators have done a great amount of profitable labor, though the results have not been put together. Indeed, the public is not aware of the really creditable efforts in which it shares the honor. Several of the most eminent Anthropologists and Ethnologists in America to-day have either been raised upon Iowa soil, or, at least, have had a considerable amount of their schooling in the study of archaeological remains and other anthropological investigations in this State. I refer of course to William J. McGee, Frederick Starr, William H. Holmes, Frank Russell, to the various men connected with the Davenport Academy of Sciences during its years of growth and usefulness, and to the men who have written for and supported *The Annals of Iowa*. In any adequate treatment of this subject, the work of these and other investigators should severally receive attention. They have done much in the way of "Anthropological Instruction," chiefly because of their love of science, and not so much as part of any organized educational effort toward such an end. It is doubtful if any other State in the Union has furnished so many Anthropologists of the first rank.<sup>1</sup>

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<sup>1</sup> It is perhaps not altogether creditable to our State enterprise that not one of the four Anthropologists just named has been kept within our borders.—EDITOR.





In addition to those already mentioned, there have been numerous workers who have contributed much to public intelligence and interest (if not in all cases to scientific accuracy) by lectures, articles, pamphlets, books, and collections. Among them I must mention Charles Aldrich, W. E. Alexander, W. V. Banta, Edwin A. Barber, F. E. L. Beal, Major Beebe, Geo. W. Bettisworth, A. Blumer, A. L. Brace, Allie B. Busby, Samuel Calvin, Augustus Campbell, John Campbell, George Catlin, A. D. Churchill, E. W. Claypole, A. J. Conant, J. B. Cutts, Robt. N. and Chas. L. Dahlberg, M. W. Davis, Seth Dean, J. O. Dorsey, S. B. Evans, P. J. Farnsworth, R. J. Farquharson, J. W. Foster, A. R. Fulton, Isaac Gallard, John Garretson, J. Gass, Charles E. Harrison, Richard Hermann, S. S. Howe, Cora M. Jordan, Charles R. Keyes, L. G. Kimberling, Isaac Loos, Clarence Lindley, E. P. Lynch, Garrick Maltery, Benjamin Morgan, Justus M. T. Myers, Samuel Murdoch, J. R. Nissley, Charles Negus, C. C. Nutting, Stephen D. Peet, W. H. Pratt, S. V. Proudfit, C. E. Putnam, E. Schmidt, G. Seyffarth, R. E. Sloan, J. E. Stephenson, C. Thomas, Theron Thompson, A. S. Tiffany, William L. Toole, G. C. Van Allen, Clement L. Webster, Charles A. White, William Williams, F. M. Witter, and H. T. Woodman.

#### THE DAVENPORT ACADEMY OF SCIENCES

Another feature worthy of special note is the contribution made by the Davenport Academy of Sciences during the thirty-five years of its existence. Anthropology has really received a great deal of attention from this remarkable insti-





tution. Many of the names above mentioned have been in one way or another related to the Academy. In its museum there is a large and creditable collection of objects illustrating anthropological topics. The *Proceedings of the Davenport Academy of Natural Sciences* contain many articles descriptive of the "finds" and summarizing the discussions and papers read at its meetings. This work, as a whole, has commanded the respect of scientific organizations throughout the world. Its publications have been passed in exchange for those of other societies here and in Europe. It has steadily accumulated these exchanges and other works until it has a library of perhaps forty thousand volumes, printed in more than a score of languages. In addition to this, the Academy has from year to year maintained public lectures and scattered its influence in definite ways through the schools of Davenport and other places.

#### ANTHROPOLOGICAL COLLECTIONS

In a paper of this character there ought to be a heading on the anthropological collections in Iowa; but it would be hard to make any just statement or estimate concerning such collections. The one at Davenport in connection with the Academy by far exceeds all others. There are numerous individual collections in many parts of the State. Some have attracted considerable attention. Among these I should mention those of Mr. M. W. Davis, of Iowa City, Mr. Clement L. Webster, of Charles City, Mr. Seth Dean, of Glenwood, etc. Certain institutions possess articles of interest which may some day be assembled in an anthropological museum that will do credit to the State and be a





center of public instruction. Such institutions are the State Historical Society of Iowa at Iowa City, the Historical Department at Des Moines, the State University, several of the Iowa colleges, and some of the secret societies—e. g. the Masonic Library at Cedar Rapids.

#### ACADEMIC INSTRUCTION

The foregoing remarks are merely suggestive of what has been done outside the sphere of purposive, organized, educational effort. It will be seen from what follows that anthropological instruction has entered very little into the organic educational consciousness of the State. In occasional departments here and there in the higher institutions a few lectures or references are made to the science of man. Occasionally a professor realizes this gap and supplies in his course a few lectures to make the proper connections with his subject.

The honor of the first definite college work in Anthropology within the United States is believed to belong to Rochester University, through the enterprise of Professor Gilmore. To Iowa belongs the second place. About 1886 or 1887, Professor Frederick Starr (now of Chicago University) taught classes in Anthropology at Coe College.<sup>1</sup>

#### THE STATE UNIVERSITY OF IOWA

From the catalogue for 1902-3 the following branches, courses, and hours of instruction are taken:—Greek, 35

<sup>1</sup> Perhaps Harvard University has third place through Dr. Duren J. H. Ward's lectures delivered in 1888-9. For years before all this, Harvard, through Professor Putman, and Pennsylvania, through Dr. Brinton had fostered the archaeological work which must pioneer the way for Anthropology as a science.—EDITOR.





courses, with 1218 hours; Latin, 37—1476; Sanskrit, 2—72; French, 16—1620; Spanish, 2—108; Italian, 2—108; German, 20—2304; Scandinavian, 20—468; English, 30—1576; Public Speaking, 19—540; History, 14—576; Sociology, 13—432; Political Economy, 20—630; Political Science, 14—648; Philosophy, 20—936; Education, 13—900; Animal Morphology and Physiology, 10—684; Zoology 7—360; Botany, 10—576; Geology, 12—792; Chemistry, 11—450; Physics, 16—558; Mathematics, 30—1961; Astronomy, 2—180; Civil Engineering, 17—1008; Anthropology, 0—28 hours; Ethnology, 0—7 hours. Total, 392 courses, 20,217 hours. Total in anthropological studies, 35 hours.

#### SOME DETAILED COMPARISONS

In the average college curriculum there are no superfluous studies. Every branch has inestimable importance. The comparisons here instituted are on the basis of the proverb, "These ought ye to have done, and not to leave the other undone." Among things of great value to life, the opportunity for each must be provided, and then the choice must be left to the individuals. There is no good reason why a college education should be marked out as four years long. Within these years no one can take all the studies now laid down in the catalogue. And still they are there, and in ever greater number—for choice. Their influence, their relative importance, are by common consent acknowledged by their presence in the list. But there are others not yet seen by average catalogue-makers. In the nature of things, knowledge must increase. He errs who thinks "to finish his education" by completing any course whatever.





From the University catalogue let us next take at random one study under each department and observe the number of hours of instruction, i. e., the relative importance assigned to it. Let us follow this with a chapter or section from Anthropology or Ethnology. Sometimes there may be analogous relationships, sometimes not. In this way, perhaps, we may see the fact of disproportion.

GREEK—Old Greek life—House, dress, marriage, funeral, market, trade, war, etc. 72 hours.

*Ethnology*—The same of Chinese, Japanese, Hindus, Egyptian, Slavic, Scandinavian, American, Polynesian and African peoples. 00.

ROMAN—Plautus—Captivi, Trinummus, Menæchmi, Rudens, Amphitruo, Miles Gloriosus, and Pseudolus. 54 hours.

*Anthropology*—Beginnings of Thought-interchange—Cries, signs, gestures, articulated vocals, language (types: agglutinative, inflectional, monosyllabic, and positional), records (quipos, pictographs, ideographs, phonetics—alphabets, words, syntax, rhetoric, literature, poetry, science, history), engraving, printing, etc. 00.

FRENCH—Merimée, Colomba, or Quatre Contes; and Alphonse Daudet, Tartarin de Tarascon. 450 hours.

*Anthropology*—Psychogeny—Origin of literature, forces or motives developing it, stimulations, inventions, artistic outcome in prose, poetry, etc. 000.

GERMAN—Old High—Tatian's Evangelienharmonie, Benedictiner Regel, Isidor, Notker's translation of Boethius de consolatione philosophiae, and the Trierer capitulare. Also Hildebrandslied, Muspilli, Wessobrunner Gebet, Merse-





burger Zaubersprueche, Ludwigslied, and Otfrid's Evangelienbuch. 72 hours.

*Ethnology*—Origin and characteristics of the German, French, Italian, Spanish, English, Scandinavian, Slavic, Roman, Greek, Persian, and Hindu races—thence back again to the early Aryan, Semitic, Turanian, Mongolian, etc. 00.

SCANDINAVIAN—Norse—Readings from Bjornson's *Smaastykker*, *En Glad Gut*, and *Synnøve Solbakken*, Jonas Lie's *Fortællinger og Skilldringer fra Norge*, and Ibsen's *Et Dukkehjem*. 108 hours.

*Anthropology*—Primitive Man—Physical, intellectual, social and religious development of prehistoric European races—Canstadt, Furfooz, Cromagnon, etc. 000.

ENGLISH—Old and Middle—Chaucer's *Canterbury Tales*, Langland's *Piers the Plowman*, *Beowulf*, etc. 180 hours.

*Anthropology*—Religiogeny—Source of religious attitude (objective and subjective or external and internal); Animism, Fetichism, Revelation, Nature Worship, etc. 000.

PUBLIC SPEAKING—Literary Interpretation—Lyric, epic, dramatic, and oratoric forms. 72 hours.

*Ethnology*—Ethnical cultus—Ceremonies, ordinances, organization, orders, symbols, places, etc. 00.

HISTORY—Greece and Rome. 72 hours.

*Anthropology*—Historical landmarks—Vesalius, Linnaeus, Buffon, Blumenbach, Prichard, Boucher de Perthes, Spencer, Darwin, Lyell, Huxley, etc. 00.

SOCIOLOGY—General—From Plato to Spencer. Social amelioration: police, sanitation, charities, correction, public utilities, education, etc. 108 hours.





*Anthropology*—Sociogeny—Zoögenic associations, zoögenic industry, economogeny, etc., etc. (Treated in Sociology, first semester by several lectures.) 6.

POLITICAL SCIENCE—Historical and descriptive—Primitive man, evolution, relations to Anthropology, Indo-European peoples, origin of government, political institutions of Greeks, Romans, Germans, etc. 54 hours.

*Anthropology*—Sociogeny—Politics, origin of law and order, justice and equity, administration and government, etc. (Treated in Political Science, first course by several lectures.) 10.

PHILOSOPHY—Abnormal Psychology—Perception, memory, imagination, reasoning, will and feeling discussed with reference to sleep, hypnosis, illusions, automatisms, alterations of personality, insanity, degeneracy, and crime. 36 hours.

*Anthropology*—Ethnical outlooks—Ideas of man's origin, of relation to supernatural beings, of salvations from certain evils, of future lives and destinies. 00. Courses 9 and 12 of Philosophy are in close connection with chapters in Anthropology.

EDUCATION—Principles—Meaning of education from standpoint of psychology, neurology, biology, anthropology, sociology, heredity and environment; nervous system, mental hygiene, habit, association, memory, imagination, apperception, instinct, sense perception, observation, feeling, volition, motor training, suggestion, imitation, etc., etc. 108 hours.

*Anthropology*—Sociogeny—Origin of purposive training, cultivation of rational selection, imitation by the





young, primitive teaching, learning trades, origin of schools, division of knowledge, beginnings of science, specialization in teaching, origin of book methods, museum collections, reactions, etc. (Touched upon in one division under "Principles," above.) 6.

ANIMAL MORPHOLOGY AND PHYSIOLOGY—Vertebrates—Laboratory study of representative protochordates: lamprey, shark, skate, catfish, necturus, frog, turtle, pigeon, rabbit, etc. 108 hours.

*Anthropology*—Somatogeny—Man as an organic being, his embryological and anatomical characteristics, origin of his physiological and pathological peculiarities (gestation, lactation, puberty, longevity, diseases, etc.) (Incidentally touched in courses 1, 3, 8, and 10 of Animal Morphology.) 00.

ZOÖLOGY—Speculative—Theories of origin and development of animal forms, historical review of prominent workers; special attention to habits, instincts and intelligence of animals. 72 hours.

*Ethnology*—Physiological varieties among races: gestation, lactation, puberty, longevity, diseases, deterioration, fertility, sterility, amalgamation, etc. 00.

(Frequent reference is made to Anthropology in the Zoölogical Department.)

BOTANY—Plant physiology: laboratory and field work, processes of absorption, assimilation, respiration, transpiration, geotropism, hydrotropism, etc. 72 hours.

*Anthropology*—Ethnogeny—Origin of races, modes of classification, (zoölogical, linguistic, mythological, social, genealogical, etc.); evolution and race, destiny of races. 00.





GEOLGY—Rock Types and Families. 144 hours.

*Ethnology*—Human Types and Families. 000.

CHEMISTRY—Aliphatic, Carbocyclic, and Heterocyclic compounds. 144 hours.

*Anthropology*—Families—Consanguine, Punaluan, Syndyasmian, Polyandrous, Polygamous and Monogamous. 000.

PHYSICS—Heat and Thermodynamics, Alternate Currents and Transformers. 144 hours.

*Ethnology*—Anatomical, Physiological, Psychological, Sociological, Moral, and Religious Characteristics of the Human Races. 000.

MATHEMATICS—Rectangular and Polar Coördinates; Loci in general, including the *Graphs* of the Rational Integral Function; Circle, Ellipse and Hyperbola; Tangents, Normals and Asymptotes. 144 hours.

*Anthropology*—Psychogeny—The beginnings of Calculation and Computation—counting, weighing, combining and generalizing things; measuring matter, laws and processes. 000.

ENGINEERING—Mechanical and Freehand Drawing; oblique, isometric, cabinet and orthographic projections and lettering; linear perspective, shades and shadows. 72 hours.

*Anthropology*—Origin of Art for the eye: marking, scratching, painting, carving, sculpturing, etc. 00.

MILITARY SCIENCE AND TACTICS. 336 hours.

*Anthropology*—Sociogeny—Origin of Administration or Government, law, order, violation, civil disturbance, war, etc. (Treated briefly in course 1 in Political Science.) 10.





Who will undertake to say that the subjects above named under the paragraphs beginning "Anthropology" and "Ethnology" are unworthy of academic recognition? Who will care to say that they are of less value than the studies named before them? Is not every one conscious that they would hold an honored place in any consensus of opinions? And who can render any satisfactory explanation for this wholesale neglect?

#### THE STATE NORMAL SCHOOL

In the catalogue issued in June, 1902, there are offered about 20 branches of study under the headings of 57 courses. The number of hours not being stated, the relative proportions of time given are not obtainable. They include the customary studies and are treated in commendable spirit and method. It does not appear that Anthropology and Ethnology receive any attention as sciences. Undoubtedly the anthropological attitude and some of the facts are found in several of the courses. No systematic study of Mankind in the State Normal School? And yet the people who leave its halls are expected to deal most intimately in the schools with growing and developing human beings!

#### DRAKE UNIVERSITY

A study of the catalogue issued in May, 1902, shows the following facts. In the College of Liberal Arts there are 28 branches taught in 68 courses, covering 8154 hours of instruction. Of these Christian History and Evidences occupy 3 courses, with 284 hours; Hebrew, 3—432; Aramaic, 1—28; Syriac, 2—116; Assyrian, 2—144; Semitic Antiquities, 1—14; Ancient Inscriptions, 1—36; while





Sociology and Political Economy have but 1 course with 144 hours, and Anthropology and Ethnology 0 courses with 000 hours! The College of the Bible gives 9 branches in 23 courses of 2536 hours. The descriptions of instruction given in Physiology and Archaeology show close relationship to Anthropology.

#### IOWA COLLEGE

In the catalogue for 1902-3, instruction leading to the two bachelor degrees of arts and philosophy is offered in 18 branches with 148 courses and 8928 hours. Among these, Greek, Latin, English, Mathematics, Philosophy, Political Science and Zoölogy are most emphasized.<sup>1</sup> Music is offered in 7 courses with 342 hours. Anthropology and Ethnology are not mentioned under these or other titles.

#### CORNELL COLLEGE

The catalogue examined is for 1901-2. Twenty-five branches are treated in 51 courses and 6442 hours. Latin, Greek and Engineering are strongly emphasized. The English Bible is studied in 2 courses of 112 hours, and Theism and Apologetics in 2 courses of 88 hours, while Anthropology and Ethnology are omitted.

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<sup>1</sup>This long detailed study has some rewards in the curious contrasts presented in certain features of the courses of various colleges. For example, Iowa College offers 12 courses with 540 hours in Political Science; and Drake offers 1 with 144 hours in Sociology and Political Economy. Drake offers 10 courses with 570 hours in Semitic Languages and Literature; and Iowa College offers nothing in this line for bachelor degrees. Iowa College mentions 148 courses with 8928 hours, and Drake 68 courses with 8154 hours.





## THE GREAT OVERSIGHT

The above is a small part of the result of an analytic and comparative study of the courses offered in several of the representative institutions of higher education in the State of Iowa. The catalogues of the other colleges have also been examined. They do not show that Anthropology and Ethnology are offered as branches for a liberal education, nor that their facts and laws are treated under other branches. Thus it would appear that the two or three dozen lectures, voluntarily given by professors in several of the departments of the State University, constitute the sum of definite academic instruction along this line within the State.

If "liberal education" includes intelligence regarding mankind in the largest available ways, a great mistake is being made. From the point of view of *time relations*, no study can open up the mind to a realization of the vastness and meaning of human life as can *Anthropology*—whose special business it is to study man from the point of view of origins, that is, his antiquity, the beginnings of his faculties as human, and the first stages of his accomplishments as conscious upward effort. Again, from the point of view of *space relations*, no other study of the "humanities" so broadens the intelligence of man about man as "kind" as does *Ethnology*—whose very essence is the study of all kinds, the understanding of the causes for their varied racial characteristics, for their wondrous distributions, and for their widely varied languages, customs, societies, and religions.





## A SCIENCE WITHOUT A PLACE

It is now forty years since Sir Charles Lyell published his *Antiquity of Man*. In that year (1863) the *London Anthropological Society* was formed. Men of science in Paris had founded the since world-renowned *Société d'Anthropologie* four years before, in 1859, the year in which Darwin's epoch-making *Origin of Species* appeared. Since then a long array of scientific scholarship has elaborated a line of facts and laws strange to men before. Among books of recent years, whose trend and central thoughts are indispensable for up-to-date culture, the following might be mentioned: E. B. Tylor, *Anthropology*; E. B. Tylor, *Primitive Culture*, 2 vols.; A. De Quatrefages, *The Human Species*; A. J. and F. D. Hubertson, *Man and His Work*; P. Topinard, *Anthropology*; Fr. Starr, *Some First Steps in Human Progress*; Fr. Ratzel, *Mankind*, 3 vols.; Fr. Ratzel, *Anthropogeographie*; E. Haeckel, *Natural History of Man*; A. H. Keane, *Ethnology*; A. H. Keane, *Man, Past and Present*; Joseph Deniker, *The Races of Man*; D. G. Brinton, *Races and Peoples*; Edward Clodd, *Story of Creation*; Edward Clodd, *Story of Primitive Man*; Henry Drummond, *Ascent of Man*; Charles Morris, *Man and His Ancestor*; Sir John Lubbock, *Prehistoric Times*, 6th ed.; Sir John Lubbock, *Origin of Civilization*; G. De Mortillet, *Le Préhistorique*; G. F. Wright, *Man and the Glacial Period*; McLean, *Manual of the Antiquity of Man*; T. H. Huxley, *Man's Place in Nature*; R. Wiedersheim, *The Structure of Man*; G. J. Romanes, *Origin of Human Faculty*; O. T. Mason, *Origin of Inventions*; W. J. Hoffmann, *Beginnings of Writing*; E. Grosse, *Beginnings of*





Art; R. Wallaschek, *Primitive Music*; Geddes & Thomson, *Evolution of Sex*; Ch. Letourneau, *Evolution of Marriage and the Family*; J. F. McLennan, *Primitive Marriage*; C. N. Starcke, *The Primitive Family*; Edward Westermarck, *History of Marriage*; A. Sutherland, *Origin and Growth of the Moral Instinct*; Lewis H. Morgan, *Ancient Society*.

"Anthropology is now a well established science," says Professor Putnam of Harvard. To which of the sciences then belongs the task of explaining why this field of knowledge, cultivated so ably and by such eminent workers, has not long ago been adopted, provided for, and unquestionably and efficiently expounded in every curriculum labeled "liberal," "higher," "advanced," or "collegiate" education?

#### PRACTICAL SUGGESTIONS

For the furtherance of anthropological science within the State and elsewhere, there should now be organized an *Anthropological Academy of Iowa*. It should have a branch in every county and in every important town. It should be founded and maintained for the development of this large field of information and interest which is in no other way adequately cared for.

For the complementation of the opportunities for "liberal education," each university and college should at the earliest possible moment provide from one to several courses in this rich but neglected field.

1. An introductory course in *General Anthropology*, or the Science of Man as a whole, covering also a sketch of the landmarks in the rise of this science.

2. A course in *Iowa Ethnology*, or the Races who have inhabited the State.





3. A course in *Iowa Anthropogeny*, or the Origin of these Races.

4. A course in *General Ethnology*, or the Races of Mankind.

5. *Seminaries* on special questions of paramount importance, instituting *archaeological investigations* in various parts of the State, and undertaking the collection of data for numerous problems awaiting solution.

6. *Museums* should be begun by adding to and developing the present available collections by the work of students, professors, and volunteers.

DUREN J. H. WARD

IOWA CITY, IOWA



## LETTERS BY MRS. JAMES W. GRIMES

CONTRIBUTED BY E. M. NEALLEY

The following letters by Mrs. James W. Grimes were taken from a collection of letters which have been preserved by Mrs. Margaret E. Nealley, whose husband, Joseph B. Nealley, was Mrs. Grimes' brother.

LETTER TO MRS. MARGARET E. NEALLEY

WASHINGTON, March 7th, '61.

*Dear Maggie:*

.....

You know there were great things to be done here which required the most absorbing attention and the most profound skill and wisdom, but I cannot say I have contributed of my *fullness* in these particulars to further this great work of saving our "ship of state" from its dreadful peril. I have believed much in Mr. Lincoln and have waited patiently for his coming, and now I am convinced I have not believed amiss. The good face which inspired the confidence of my heart is inspiring the same trust in thousands here. Such weight is there in plain wisdom and rectitude of purpose, in cleanness of heart and morals! They shine like a glory in this atmosphere. "God bless old Abe!" Oh how my heart of hearts prays it! There was much bitter feeling and anxiety about the formation of the Cabinet, during the process, but the work completed seems to satisfy. All who





approach the President come away with improved feeling toward him, with confidence and respect. He looked well on inauguration day, was very pale as he walked into the Senate Chamber and took his seat by Mr. Buchanan. Ladies sitting by me in the gallery exclaimed, how handsome he is! They had heard quite a different tale, and he looked so much better than they expected to see him that they called him handsome. His inaugural was delivered with great dignity and feeling, and his oath was taken as though he felt its full solemnity. He spoke very slowly, pausing at every sentence. And now we hope for.....<sup>1</sup>

LETTER TO MRS. MARGARET E. NEALLEY

WASHINGTON, Jan. 9th, 1866.

*My Dear Sister:*

I am all alone this evening, Mr. Grimes having gone to a Committee meeting at the Capitol, and the forms of that faraway mother and of her little child, called of her Moses, rise before me in the deep silence and bid me *write*. But how much pleasanter would it be to me could I come to you in person for a little while and comfort my heart with a real participation in your quiet happiness. I would be still more pleased could you and your husband be with me in our own cheerful rooms here for the evening. I cannot feel quite satisfied not to have you know how things look here where we are spending so much of our lives,—but then it is not for us to be satisfied in any home-sense in a place where we feel that we are only staying for a brief period, mere sojourners, with our dear home in Iowa always in mind. I

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<sup>1</sup> The remainder of this letter is missing.





get to feel a real homesickness after being here a few months and am impatient to leave when the spring comes.

We are quite near the White House this winter and pass under the very porch sometimes in coming from the Capitol. We lift our eyes to it without any feeling of awe much less of envy, indeed it seems a place strangely wanting in attractions, as perhaps it would necessarily after the loss from it of such a man as Mr. Lincoln. He drew multitudes about him from the first by the magnetism of his kind heart and by a combination of traits that gave a strange charm to his homely person and conversation.

Mr. Johnson is as yet hardly known by the people, and we hear very little about him, only as we hear discussed here in Washington his views and measures of "Reconstruction," which Congress seems determined to examine a little before adopting. Does not Congress begin business very carefully and promise, at any rate, not to commit the blunder of too great haste in restoring the States that have committed such injury to the country and to themselves by their violent "secession?" There is no unwillingness to deal kindly with them, but there is an anxious desire to know the very best course to pursue. Mr. Grimes says of the Committee, whose business it is to inquire into the condition of the Southern States, that it is a very able Committee. You know the members are chosen from both Houses.

They say we are in a very favorable part of the City this winter for the parties and receptions and gayeties of every description, but I am afraid the devotees of such pleasures will gain nothing by our being here. We find there are





attractions of other kinds here, a society more agreeable to our modest tastes, or moderate tastes I might better say.

We have the *Hawk-Eye* and know of the fairs and concerts and other things of public and general interest transpiring in Burlington. Mr. Salter's people seem fully to have resolved to build a new church; but are they not going to place it too near the Presbyterian? I understand there will be only the space of an alley between them.

I have not been to church or hardly anywhere else as yet this winter, as I have had colds nearly all the time, not very bad but enough so to oblige me to be very careful, and I fear to go to church and sit with cold feet. I wish you could write me but will not insist upon it knowing your many cares. I long to see the baby sometimes and think it very hard to be always such a stranger to him that he will not care anything about me.

I hope you and your husband are well this winter, and that all is well at your father's house.

With love to everyone there and in the country.

Yr. aff. sister,

E. S. GRIMES.

LETTER TO JOSEPH B. NEALLEY

WASHINGTON, May 13th, 1868.

*My Dear Brother:*

I suppose you see by the *Tribune* yesterday that Mr. Grimes is "dead," and you have probably learned before this all the particulars of the closing scene. To my mind there is no such evidence of *life* as that of a man's being able in a time like this steadfastly to follow the dictates of





his own clear intellect and his good conscience,—and having taken an oath to do impartial justice in this greatest trial known to our government, to feel bound by it in spite of all such shameless misrepresentations and menaces as those of the *N. Y. Tribune* and other papers. The enclosed is cut from the *N. Y. Evening Post*, which I think will seem to you as the more truthful view of things.

I believe Mr. Grimes' "opinion," which was only partly read in the secret session on Monday, is published in the *Chicago Tribune*. You will have seen it before this reaches you. Mr. Fessenden's and Mr. Trumbull's are longer, and Mr. Grimes says they argue the case more fully, and he thinks their papers very able. We have seen all that is worst in politics in the course of this trial of impeachment. But I cannot begin to tell you in the space of this letter how much we have felt to be involved in it.

Mary and I are packing our trunks to-day, and expect to take leave of Washington next Monday, the 18th. Mr. Grimes will go with us to N. Y.

I hope Maggie and the children are well. I should have written her if I could write letters with ease as some do. When I could write I have written to Matty from an old habit, and you have heard from me occasionally in that way. I have been feeling quite weak this spring, but believe I am gaining a little now. Mr. Grimes is pretty well worn out by this tedious trial—has . . . . .<sup>1</sup>

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<sup>1</sup>The remainder of this letter is missing.





and the General Assembly has enacted seven laws respecting the division of the State for this purpose.

## CONGRESSIONAL DISTRICTING IN IOWA

It is the purpose of this paper to outline briefly the history of legislation on the subject of congressional districting in Iowa—pointing out the changes made from time to time, showing by means of maps the exact form and extent of the districts established by the several acts of the General Assembly, and commenting upon the motives and circumstances prompting alterations in the boundaries of these districts.

Prior to 1847 there were no congressional districts in the State. From 1838 to 1846 Iowa existed as a separate Territory, entitled to one Delegate in Congress, who was chosen for a term of two years and who represented the entire territorial area and population.<sup>1</sup> Then came the change incident to statehood. On August 4, 1846, Congress passed an act defining the boundaries of the State of Iowa and providing that, until the next census and apportionment, the new State should be entitled to two seats in the House of Representatives.<sup>2</sup> A State Constitution was adopted, and on December 28, 1846, Iowa entered the Union. The State had not, however, been districted in time for the election of that year; hence the two congressmen were chosen on a general ticket, each to represent the State as a whole.<sup>3</sup> Since that time Iowa congressmen have been elected by districts,

<sup>1</sup> *Laws of Iowa*, 1838, p. 38.

<sup>2</sup> *U. S. Statutes at Large*, Vol. ix, p. 52.

<sup>3</sup> *The Iowa Standard*, Nov. 4, Nov. 11, and Dec. 2, 1846.



and the General Assembly has enacted seven laws respecting the division of the State for this purpose.

THE ACT OF 1847

On December 7, 1846, the State Senate voted that a "select committee of seven" be appointed to "report a bill to the Senate, dividing the State into two congressional districts, so as to include, as nearly as can be done, an equal portion of the territory and an equal portion of the population of the State in each district, and that the vote given in August last for and against the constitution be taken as the basis in dividing the population."<sup>1</sup> This committee reported a bill which was later referred to a selected committee of three from each judicial district.<sup>2</sup> From this body the bill emerged in a somewhat modified form;<sup>3</sup> and, after considerable discussion and amendment both in the Senate<sup>4</sup> and in the House,<sup>5</sup> it became a law, February 22, 1847.<sup>6</sup> This first statute on the subject divided the State into two congressional districts: the *first* was to consist of the counties of Lee, Van Buren, Jefferson, Wapello, Davis, Appanoose, Henry, Mahaska, Monroe, Marion, Jasper, Polk, Keokuk, and the country south of a line drawn from the northwest corner of Polk county west to the Missouri river; the *second* was composed of the counties of Clayton, Dubuque, Delaware, Jackson, Clinton, Jones, Linn, Poweshiek, Benton, Iowa, Johnson, Cedar, Scott, Muscatine, Washington, Louisa,

<sup>1</sup> *Senate Journal*, 1st G. A., p. 31.

<sup>2</sup> *Ibid*, pp. 50, 69.

<sup>3</sup> *Ibid*, p. 109.

<sup>4</sup> *Ibid*, pp. 117-118.

<sup>5</sup> *House Journal*, 1st G. A., pp. 339, 355.

<sup>6</sup> *Laws of Iowa*, 1st Sess., 1st G. A., p. 84.





Des Moines, and all north of a line from the northwest corner of Polk county west to the Missouri.

From the standpoint of area, of population, and of politics, this arrangement seems to have been equitable. Turning to Map I, on which the limits of the two districts are indicated, we see that the dividing line marks off a southern, or *first* district, and a northern, or *second* district, which are fairly regular in outline, but quite unequal in area. This inequality is, however, readily explained in this way. To compensate for the sparse settlement of the northwest, the eastern portion of the boundary line veers to the south so that the comparatively dense population of the southeast may be shared by the second district. In population, on the other hand, the first (and smaller) district leads by more than 2,000;<sup>1</sup> while in voters it outnumbers the second district by about 500.<sup>2</sup> As to politics, each district returned a Democratic majority of a few hundred.<sup>3</sup> But there is little ground for a charge of gerrymander; for, while the Whig minority was large in each case, it was so distributed as to make the formation of even one Whig district<sup>4</sup> impossible, except through the establishment of the most irregular and unnatural boundaries.

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<sup>1</sup> Hull's *Historical and Comparative Census of Iowa*, p. 196.

<sup>2</sup> *The Iowa Standard*, Sept. 15, 1847.

<sup>3</sup> *Ibid.*

<sup>4</sup> Whig majorities in 1847 were:—Henry 131, Jasper 38, Mahaska 25, Dallas 7, Clayton 4, Cedar 22, Delaware 20, Jones 2, Scott 13, Muscatine 14, Washington 80, Louisa 103. Total 459.—*The Iowa Standard*, Sept. 15, 1847.





## THE ACT OF 1848

Early in January, 1848, a bill was introduced into the House of Representatives providing for the transfer of Poweshiek county from the second congressional district to the first.<sup>1</sup> Apparently without opposition, this measure passed both houses, and on January 24 received the signature of the Governor.<sup>2</sup> Why this transfer was made, is not clear. It is true that on this same January 24 the first law was passed for the organization of the county of Poweshiek,<sup>3</sup> whose boundaries had been fixed a few years before;<sup>4</sup> but this change in the status of the county did not necessitate a change in its relation to the congressional districting of the State. The transfer was not to equalize the population of the two districts; for the census returns for 1847, 1848, and 1849 show that the inhabitants of the first district outnumbered those of the second by several thousand.<sup>5</sup> Nor could the political motive have been weighty; for, while the election returns indicate a decreasing Democratic majority in the first district and an increasing Democratic majority in the second, the Whig majority of *five* in Poweshiek was not sufficient to make any material difference in the political complexion of either district.<sup>6</sup> The chief merit of the law seems to have been that it tended to straighten the dividing

<sup>1</sup> *House Journal*, 1st G. A., Extra Sess., pp. 37, 64.

<sup>2</sup> *House Journal*, 1st G. A., Extra Sess., p. 70; *Senate Journal*, p. 59; *Laws of Iowa*, 1st G. A., Extra Sess., p. 34.

<sup>3</sup> *Laws of Iowa*, 1st G. A., Extra Sess., p. 55.

<sup>4</sup> *Revised Statutes of the Territory of Iowa*, 1842-1843, p. 131.

<sup>5</sup> *House Journal*, 1st G. A., Extra Sess., p. 69; Hull's *Historical and Comparative Census*, pp. 196, 198.

<sup>6</sup> Fairall's *Manual*, 1882, pp. 14, 15.





line and so make the form of the districts more regular. (See Map II).

THE ACT OF 1857

On January 24, 1857, Mr. Foster from the Senate committee on apportionment reported a bill to alter the boundaries of the congressional districts.<sup>1</sup> The measure promptly passed both houses without amendment,<sup>2</sup> and on January 28 became a law. By its terms, three counties (Des Moines, Louisa, and Washington) were detached from the second district and attached to the first.<sup>3</sup> The reasons for this change are not far to seek. In the first place, the population of the second district had been increasing much more rapidly than that of the first. In 1849 the latter had numbered 86,899 inhabitants, while the former had only 68,074; but in 1856 the order of precedence was reversed, since the first district had but 222,120, whereas the population of the second had grown to 285,755.<sup>4</sup> A slight change of boundaries was, therefore, warranted in order to restore equality. Moreover, several circumstances argued in favor of the transfer of the three counties mentioned in the act. It tended to equalize the population of the two districts, and yet guarded against the necessity of a too early readjustment, by giving the first district a slight excess of inhabitants to offset the more rapid increase in the second.<sup>5</sup> Fur-

<sup>1</sup> *Senate Journal*, 6th G. A., p. 450.

<sup>2</sup> *Senate Journal*, 6th G. A., pp. 464, 488; *House Journal*, 6th G. A., pp. 492, 516.

<sup>3</sup> *Laws of Iowa*, 6th G. A., p. 323.

<sup>4</sup> Hull's *Historical and Comparative Census*, p. 196.

<sup>5</sup> *Ibid*, p. 196. By the new arrangement the first district had 262,999 and the second 244,876 inhabitants.





thermore, it served to secure greater regularity in the boundaries and forms of the districts than any other arrangement would have done.<sup>1</sup> But it seems also to have subserved partisan ends. In the congressional election of 1856 the second district returned a Republican majority of 6,017, while the first went Republican by only 955 votes.<sup>2</sup> The second was safe; but no great change of sentiment would be requisite to give the first to the Democrats. The counties of Des Moines, Louisa, and Washington alone had, in 1856, given a majority of 862 for the Republican candidate. This vote could be shifted to the first district; and so, without endangering party success in the northern district, the Republican chances in case of general Democratic gains would be strengthened several fold. The outcome of the election of 1858 vindicated the wisdom of this precautionary step; for the Republican majorities were reduced to 2,739 in the second district and 600 in the first, while the three counties in question were carried by only 499 votes. This last number subtracted from the 600 would have left the dominant party with the uncomfortably narrow margin of 101 in the southern district.<sup>3</sup> The act of 1857 had relieved the Republicans of great anxiety and fortified their success for the future.

#### THE ACT OF 1862

The census of 1860 revealed marvelous growth on the part of Iowa. During the decade then closing the popula-

<sup>1</sup> See Maps II and III.

<sup>2</sup> Fairall's *Manual*, 1882, p. 21.

<sup>3</sup> *Tipton Advertiser*, Dec. 11, 1858.





tion of the State had increased more than 250 per cent.<sup>1</sup> For the same period the ratio of national representation, fixed by Congress after the taking of each census, had been raised only about 37 per cent.<sup>2</sup> When the new figures for the population of Iowa were divided by the new ratio the result was *five* and a large fraction. Moreover, in 1862 Congress decided to increase the total number of Representatives from 233 to 241, and, in recognition of the fraction above mentioned, to award one of these new representatives to the State of Iowa.<sup>3</sup> Thus the number of seats in Congress to which Iowa was entitled was suddenly increased from two to six. The State was to be redistricted accordingly. This work was promptly taken up by the General Assembly. It was on March 25, 1862, that Mr. Eaton introduced into the House a bill which was speedily passed and presented to the Senate on the very day of its introduction in the House.<sup>4</sup> Here it was referred to the committee on congressional districts, from which it was reported with important amendments. Over this report a spirited discussion arose; numerous additional amendments were suggested and lost; but the bill was finally passed substantially as it came from the Senate committee.<sup>5</sup> Thereupon the House refused to concur in the senate amendments. A committee of conference

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<sup>1</sup>Population of Iowa in 1850 was 192,214; in 1860, 674,913.—Hull's *Historical and Comparative Census*, pp. 198-9.

<sup>2</sup>Ratio of representation fixed after the census of 1850 was 93,500; after the census of 1860 it was 127,941.

<sup>3</sup>*U. S. Statutes at Large*, Vol. xii, p. 353. Act of March 4, 1862.

<sup>4</sup>*House Journal*, 9th G. A., p. 692; vote 53 to 22.

<sup>5</sup>*Senate Journal*, 9th G. A., pp. 449, 456, 516, 517, 519, 536; vote 26 to 16.





was chosen by each house, and a compromise measure was agreed upon, which became a law April 5, 1862.<sup>1</sup>

By this act the State was divided into the following six districts: The *first*, consisting of the counties of Lee, Van Buren, Davis, Jefferson, Henry, Des Moines, Louisa, and Washington; the *second*, of Muscatine, Scott, Clinton, Jackson, Cedar, Jones, and Linn; the *third*, of Dubuque, Clayton, Allamakee, Winneshiek, Howard, Mitchell, Buchanan, Floyd, Chickasaw, Bremer, Fayette, and Delaware; the *fourth*, of Appanoose, Monroe, Wapello, Marion, Mahaska, Keokuk, Jasper, Poweshiek, Iowa, Johnson, Tama, and Benton; the *fifth*, of Polk, Dallas, Guthrie, Audubon, Shelby, Harrison, Warren, Madison, Adair, Cass, Pottawattamie, Lucas, Clarke, Union, Adams, Montgomery, Mills, Wayne, Decatur, Ringgold, Taylor, Page, and Fremont; the *sixth*, of Worth, Cerro Gordo, Black Hawk, Grundy, Butler, Franklin, Hardin, Marshall, Story, Hamilton, Wright, Hancock, Winnebago, Boone, Webster, Humboldt, Kossuth, Greene, Calhoun, Pocahontas, Palo Alto, Emmet, Carroll, Sac, Buena Vista, Clay, Dickinson, Crawford, Ida, Cherokee, O'Brien, Osceola, Monona, Woodbury, Plymouth, Sioux, and Buncombe.<sup>2</sup>

The territorial features of this enactment are clearly represented on Map IV. Perhaps the most striking fact in this connection is the great inequality in the size of the districts.

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<sup>1</sup> *Senate Journal*, 9th G. A., pp. 550, 564, 580, 586, 595. It is probable that this is the senatorial plan for the six districts which is given in the *Dubuque Weekly Times*, April 10, 1862.

<sup>2</sup> *Laws of Iowa*, 9th G. A., Reg. Sess., p. 182. Buncombe was the original name of Lyon county. The name was changed, December 10, 1862;—see *Laws of Iowa*, 9th G. A., Extra Sess., p. 22.





A vast area, more than half the State, is embraced in two districts; while the sixth district alone occupies more than one-third of the entire Commonwealth. This is suggestive of the unequal distribution of population throughout the State; but the territorial inequality of the districts is by no means commensurate with the inequality in the distribution of population. In fact, the population of the districts varies almost inversely as their areas. The first had 138,032 inhabitants in 1860; the second, 125,036; the third, 128,646; the fourth, 134,895; the fifth, 101,571; and the sixth, 46,732.<sup>1</sup> Had the people of Iowa been divided equally among six districts, made up of contiguous territory, these large districts would have been still larger and, perhaps, would have exceeded the limits consistent with the most serviceable and effective representation. Nor were political considerations lost sight of. The dominant party not unnaturally looked out for its own interests. The population of the several districts was made almost exactly proportionate to the strength of the Democratic opposition in those districts. The success of these party efforts was apparent in the fall of 1862; for, while the Democrats cast more than three-sevenths of the vote of the State, each one of the new districts chose a Republican representative.<sup>2</sup> The distribution of territory

<sup>1</sup> Hull's *Historical and Comparative Census*, p. 197.

<sup>2</sup> Vote for congressmen, in 1862:—

PARTY	1ST DIST.	2ND DIST.	3RD DIST.	4TH DIST.	5TH DIST.	6TH DIST.
Republican.....	12705	12433	12112	12900	10306	5396
Democratic .....	10486	8930	8452	11520	7346	2755
Rep. Majority.....	2219	3503	3660	1380	2960	2631

—Fairall's *Manual*, 1882, p. 26.





and voters by which this result was accomplished was not, however, especially remarkable or reprehensible; for, while the Democratic vote was strong, it was so distributed as to make the erection of more than one or two Democratic districts (e. g. the first and fourth) impossible without resort to palpable gerrymandering in favor of Democracy.

#### THE ACT OF 1872

On July 14, 1862, Congress passed a law prescribing that in each State, entitled to more than one representative, the number to which such State should be entitled should be elected *by districts* composed of contiguous territory and equal in number to the number of representatives to which the State should be entitled.<sup>1</sup> Since that time, each federal statute relating to the number and apportionment of representatives in Congress, has re-enacted these provisions and has further specified (1) that the districts in each State shall contain, as nearly as practicable, an equal number of inhabitants, and (2) that, if the number of representatives from any State be increased, the State shall choose a delegate at large until the State legislature shall have re-districted the State.<sup>2</sup>

As Iowa legislation on the subject had hitherto been roughly conformable to these conditions, their enactment into national law had no appreciable effect upon the later laws of the State relating to the congressional districting. It may be of interest, however, to note that the first act

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<sup>1</sup> *U. S. Statutes at Large*, Vol. XII, p. 572.

<sup>2</sup> *U. S. Statutes at Large*, Vol. XVII, p. 28; Vol. XXII, p. 5; Vol. XXVI, p. 735.





subsequent to this national regulation was that of 1872. The congressional apportionment act of February 22, 1872, increased the number of representatives assigned to Iowa from six to nine.<sup>1</sup> Even in anticipation of a new apportionment, the Iowa State Senate had appointed a congressional districting committee consisting of one senator from each judicial district, and had later augmented the membership of this committee by three.<sup>2</sup> They reported a bill, which was slightly altered, and, after the failure of numerous other amendments, was passed by the Senate.<sup>3</sup> Upon being submitted to the House, the bill was referred to the committee on congressional districts, was reported favorably, and passed without amendment,<sup>4</sup> but by a strictly party vote, all Democrats voting in the negative.<sup>5</sup>

This act, which was signed by the Governor, April 17, 1872, divided the State into nine districts: the *first* consisting of Lee, VanBuren, Jefferson, Henry, DesMoines, Louisa, and Washington counties; the *second* of Muscatine, Scott, Clinton, Jackson, Jones, and Cedar; the *third*, of Dubuque, Clayton, Allamakee, Winneshiek, Fayette, Buchanan, and Delaware; the *fourth*, of Black Hawk, Bremer, Chickasaw, Howard, Mitchell, Floyd, Butler, Grundy, Hardin, Franklin, Cerro Gordo, Worth, Winnebago, Hancock, and Wright; the *fifth*, of Johnson, Iowa, Poweshiek, Marshall, Tama, Benton, and Linn; the *sixth*, of Davis, Wapello, Keokuk, Mahaska,

<sup>1</sup> *U. S. Statutes at Large*, Vol. xvii, p. 28.

<sup>2</sup> *Senate Journal*, 14th G. A., pp. 13, 35, 44.

<sup>3</sup> *Ibid.*, pp. 381, 403; vote, 34 to 7.

<sup>4</sup> *House Journal*, 19th G. A., pp. 519, 549, 591, 688.

<sup>5</sup> *Iowa State Register*, April 17, 1872.





Jasper, Marion, Monroe, and Appanoose; the *seventh*, of Wayne, Decatur, Clarke, Lucas, Warren, Polk, Dallas, Madison, Adair, Guthrie; the *eighth*, of Ringgold, (Union, Adams, Taylor, Page, Montgomery, Cass, Audubon, Shelby, Harrison, Pottawattamie, Mills, Fremont; the *ninth*, of Story, Boone, Hamilton, Webster, Humboldt, Kossuth, Crocker,<sup>1</sup> Emmet, Palo Alto, Pocahontas, Calhoun, Greene, Carroll, Sac, Buena Vista, Clay, Dickinson, Osceola, O'Brien, Cherokee, Ida, Crawford, Monona, Plymouth, Sioux, Lyon, and Woodbury.<sup>2</sup>

The following table shows the population and the political complexion of each district:

NUMBER OF DISTRICT	POPULATION <sup>3</sup> 1870	REPUBLICAN <sup>4</sup> VOTE 1872	DEMOCRATIC <sup>4</sup> VOTE 1872	REPUBLICAN <sup>4</sup> MAJORITY 1872
1st District. . . . .	153269	15149	10961	4188
2nd District. . . . .	157725	12521	12346	175
3rd District. . . . .	159617	13654	11774	1880
4th District. . . . .	118385	15615	4574	11041
5th District. . . . .	144364	15531	7434	8097
6th District. . . . .	155585	14638	11703	2935
7th District. . . . .	125211	14909	7702	7207
8th District. . . . .	94121	12675	6999	5676
9th District. . . . .	85743	12402	6152	6250
Total. . . . .	1194020	127094	79645	47449

<sup>1</sup> May 13, 1870, a law was enacted erecting the northernmost townships of Kossuth county into a separate county known as Crocker.— See *Laws of Iowa*, 13th G. A., p. 239. But on December 11, 1871, the Supreme Court declared the law unconstitutional on the ground that these townships did not contain the minimum area required for a county erected under the Constitution of the State.— Stiles Reports, XII, 16 (old series); XXXIII, 16 (new series).

<sup>2</sup> *Laws of Iowa*, 14th G. A., Reg. Sess., p. 63.

<sup>3</sup> Hull's *Historical and Comparative Census*, pp. 197-9.

<sup>4</sup> *Census of Iowa*, 1873, p. 80; vote for congressmen.





From Map V, it will be seen that these districts were reasonably regular and that the grouping of counties was fairly convenient from a territorial point of view; while variation in extent of districts was naturally much less striking than before.

The case in 1872 closely paralleled that of 1862. Congress had made a new apportionment in accordance with a new census. Iowa's representation had been increased. The Republicans were in control of the State, and sought to secure the new districts as well as the old. The Democrats still cast about two-fifths of the votes of the State. The formation of a few Democratic districts would have been easy,<sup>1</sup> but convenience and regularity of districting did not demand it. The Republicans lived up to all their opportunities. As in 1862, population was made to vary directly as the strength of Democratic opposition. Eastern districts were made the more populous, and at the first election after the new apportionment all the districts returned Republican majorities. But in 1872 the second district was carried by the narrow margin of only 175 votes,<sup>2</sup> and in 1874 the third went Democratic by 63 votes.<sup>3</sup>

Early in 1878 a majority of the Iowa house committee on congressional districts reported favorably a bill for the redistricting of the State.<sup>4</sup> The minority, however, protested

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<sup>1</sup> The second, for example, by transferring Cedar or Jones (each with about 1400 Republican majority) to the fifth district.—*Census of Iowa*, 1873, pp. 75-76.

<sup>2</sup> *Census of Iowa*, 1873, p. 80.

<sup>3</sup> Fairall's *Manual*, 1882, p. 40.

<sup>4</sup> *House Journal*, 17th G. A., pp. 414, 444.





on two grounds: (1) that the census of 1880 would soon lead to a reorganization of the districts and would probably increase the number allotted to Iowa; (2) that the proposed changes were unwise and unjustifiable since they affected only the third and fourth districts and destroyed the symmetry of both, making both reach from the Mississippi far westward in narrow strips of twenty-four by a hundred and seventy-five.<sup>1</sup> Nothing ever came of this proposition, which was evidently an attempt to divide the Democratic vote of the northeastern part of the State in such a way as to make the dubious third district securely Republican.

#### THE ACT OF 1882

In accordance with the census of 1882, Iowa's quota of representatives was increased to eleven. The new apportionment bill was enacted February 25, 1882.<sup>2</sup> Immediately the question of redistricting the State was taken up in earnest by the General Assembly and the press. Within two weeks nearly a dozen plans had been published in the *State Register* alone,<sup>3</sup> and no less than four distinct bills had been introduced in the Senate,<sup>4</sup> and three in the House.<sup>5</sup> In each house these proposals were referred to the proper committee, which, in each case, reported a substitute for the numerous measures submitted.<sup>6</sup> The two houses passed their respec-

<sup>1</sup> *House Journal*, 17th G. A., p. 461.

<sup>2</sup> *U. S. Statutes at Large*, Vol. xxii, p. 5.

<sup>3</sup> February 18, 22, 23, 24, 25, 26, March. 1.

<sup>4</sup> *Senate Journal*, 19th G. A., pp. 239, 260, 288, 337.

<sup>5</sup> *House Journal*, 19th G. A., pp. 324, 355.

<sup>6</sup> *Senate Journal*, 19th G. A., pp. 239, 260, 292, 337, 365; *House Journal*, 19th G. A., 324, 355, 479.





tive substitutes almost simultaneously and, on the same day, March 14, each was notified of the action of the other.<sup>1</sup> In the House, the senate substitute was referred to the committee on congressional districts.<sup>2</sup> In the Senate, the house substitute was so amended as to change radically the composition and boundaries of the western districts.<sup>3</sup> The House refused to concur in these amendments;<sup>4</sup> the Senate refused to recede from its position; and a committee of conference was decided upon.<sup>5</sup> This committee agreed upon a slightly modified form of the Senate measure,<sup>6</sup> and their report was adopted by both houses,<sup>7</sup> submitted to the Governor, and on March 23 became a law.

The arrangement was as follows: *first* district, made up of the counties of Lee, Des Moines, Henry, Van Buren, Jefferson, Washington, and Louisa; the *second*, of Jones, Jackson, Clinton, Cedar, Scott, and Muscatine; the *third*, of Dubuque, Delaware, Buchanan, Black Hawk, Bremer, Butler, and Grundy; the *fourth*, of Clayton, Fayette, Winneshiekie, Allamakee, Howard, Mitchell, Floyd, and Chickasaw; the *fifth*, of Marshall, Tama, Benton, Linn, Johnson, and

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<sup>1</sup> *Senate Journal*, 19th G. A., pp. 403-405, 428; *House Journal*, 19th G. A., p. 520.

<sup>2</sup> *House Journal*, 19th G. A., p. 526.

<sup>3</sup> *Senate Journal*, 19th G. A., p. 446.

<sup>4</sup> *House Journal*, pp. 561, 562.

<sup>5</sup> *Ibid.*, pp. 578, 579, 584.

<sup>6</sup> *Ibid.*, p. 599; *Senate Journal*, p. 496; *State Register*, March 17, 1882. Audubon was changed from the 7th to the 9th district; Kosuth from the 11th to the 10th; Monona from the 9th to the 11th.

<sup>7</sup> *House Journal*, 19th G. A., pp. 599, 600, 604; *Senate Journal*, p. 497.





Iowa; the *sixth*, of Jasper, Poweshiek, Mahaska, Monroe, Wapello, Keokuk, and Davis; the *seventh*, of Guthrie, Dallas, Polk, Adair, Madison, Warren, and Marion; the *eighth*, of Clarke, Lucas, Ringgold, Decatur, Wayne, Appanoose, Union, Adams, Page, and Taylor; the *ninth*, of Pottawattamie, Cass, Mills, Audubon, Crawford, Montgomery, Shelby, Fremont, and Harrison; the *tenth*, of Boone, Story, Hardin, Hamilton, Webster, Franklin, Wright, Humboldt, Hancock, Cerro Gordo, Worth, Winnebago, and Kossuth; and the *eleventh*, of Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Pocahontas, Woodbury, Ida, Sac, Calhoun, Monona, Carroll, and Greene.<sup>1</sup>

According to the census of 1880, the population was now somewhat more evenly distributed than by any previous arrangement, the first district having 156,972 inhabitants, the second, 164,958, the third, 144,418, the fourth, 149,227, the fifth, 152,112, the sixth, 146,831, the seventh, 147,125, the eighth, 148,397, the ninth, 153,683, the tenth, 137,368, and the eleventh, 121,534.<sup>2</sup> But territorially the districts of 1882 compare less favorably. On Map VI the long, slender figures of the third and the eighth, and the ragged outlines of the sixth especially arrest our attention. Further examination of the situation shows that these irregular boundaries are the result of an attempt to render harmless the Democratic and Greenback opposition of the east and south. Apparently this object had been accomplished; for on the basis of the election returns of 1880 each of the eleven new

<sup>1</sup>*Laws of Iowa*, 19th G. A., Reg. Sess., p. 150.

<sup>2</sup>Hull's *Historical and Comparative Census*, pp. 196-7.





districts was Republican by several thousand.<sup>1</sup> But this sweeping triumph was only apparent. In the fall of 1882, the Democrats carried three Districts (the second, fourth, and ninth), while the fifth gave a Republican majority of only twenty-three.<sup>2</sup> The political weakness of this grouping was further demonstrated in 1884, when the second, fifth, and sixth districts went Democratic, and the vote in the first, fourth, and ninth was very close.<sup>3</sup> The climax, however, was reached in 1885, when in the State election the Fusionists carried six of the congressional districts (the first, second, third, fifth, sixth, and ninth); while the Republicans carried only five districts (the fourth, seventh, eighth, tenth, and eleventh).<sup>4</sup>

Early in March, 1886, Republican newspapers and legislators began the vigorous agitation of the question of reorganizing the congressional districts of the State. No additions had been made to Iowa's representation in Congress; no new apportionment bill had been passed at all. But the press advocated redistricting on several grounds: (1) that the increase in population since the last apportionment had disturbed the equality then established, and so wrought manifest injustice as among the different districts; (2) that Iowa was a Republican State and should have a Republican delegation in Congress, but under the present arrangement Democrats were likely to fill a large percentage of her seats

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<sup>1</sup> Fairall's, *Manual*, 1882, p. 49-51.

<sup>2</sup> *Ibid*, pp. 58-59.

<sup>3</sup> *Ibid*, 1885, p. 34.

<sup>4</sup> *Census of Iowa*, 1885, p. 356-397; *Iowa Official Register*, 1886, p. 82.





in the national legislature;<sup>1</sup> (3) that redistricting in the interests of a stronger Republican delegation from Iowa was especially desirable at that time, when the Republicans had a reasonable hope of gaining control of the next Congress.<sup>2</sup> The relative importance of these arguments is not difficult to determine. While the shifting of population was a matter to be taken into consideration after a redistricting had been decided upon, it alone was not of sufficient importance to warrant a reorganization so soon. In fact the inequalities were less notable than immediately after the passage of earlier redistricting acts.<sup>3</sup> The paramount consideration was political. This the press was free to acknowledge, and in answer to Democratic criticism was cited the disfranchisement of the negro in the South.<sup>4</sup>

## THE ACT OF 1886

Separate bills for the redivision of the State were early introduced into the two branches of the General Assembly.<sup>5</sup> The senate measure was reported favorably from the com-

<sup>1</sup> *Iowa State Register*, March 5, 1886 (From *Dallas County News*).

<sup>2</sup> *Ibid*, March 17, 1886; March 30, 1886.

<sup>3</sup> A comparative table may be serviceable.

NO. OF DISTRICT	1862	1872	1882	1885
1st District . . . . .	138032	153269	156972	150214
2nd District . . . . .	125036	157725	164958	165262
3rd District . . . . .	128646	159617	144418	146195
4th District . . . . .	134895	119385	149227	141681
5th District . . . . .	101571	126788	152112	152516
6th District . . . . .	46732	155585	146831	147209
7th District . . . . .		125211	147125	160025
8th District . . . . .		94117	148397	151967
9th District . . . . .		75743	153683	173258
10th District . . . . .			137368	164806
11th District . . . . .			121534	200849

— See Hull's *Historical and Comparative Census*, pp. 196-200; also *Census of Iowa*, 1888, pp. 1-81.

<sup>4</sup> *Iowa State Register*, March 6, March 17, April 10, 1886.

<sup>5</sup> *Senate Journal*, 21st, G. A., p. 296; *House Journal*, p. 324.





mittee on congressional districts;<sup>1</sup> but during the discussion a substitute was offered<sup>2</sup> which was promptly accepted by the House<sup>3</sup> and, on April 10, received the signature of the Governor.<sup>4</sup> In the words of the *State Register*, "The measure had the support of a strong majority, but was opposed by some of the strongest and best Republicans in the House."<sup>5</sup>

This act apportioned the counties as follows: the *first* district, Washington, Louisa, Jefferson, Henry, Des Moines, Lee, and Van Buren; the *second*, Muscatine, Scott, Clinton, Jackson, Johnson, and Iowa; the *third*, Dubuque, Delaware, Buchanan, Black Hawk, Bremer, Butler, Franklin, Hardin, and Wright; the *fourth*, Clayton, Allamakee, Fayette, Winneshiek, Howard, Chickasaw, Floyd, Mitchell, Worth, and Cerro Gordo; the *fifth*, Jones, Linn, Benton, Tama, Marshall, Grundy, and Cedar; the *sixth*, Davis, Wapello, Keokuk, Mahaska, Poweshiek, Monroe, and Jasper; the *seventh*, Story, Dallas, Polk, Madison, Warren, and Marion; the *eighth*, Adams, Union, Clarke, Lucas, Page, Appanoose, Wayne, Decatur, Ringgold, Taylor, and Fremont; the *ninth*, Harrison, Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair, Mills, and Montgomery; the *tenth*, Crawford, Carroll, Greene, Boone, Calhoun, Webster, Hamilton, Pocahontas, Humboldt, Palo Alto, Kossuth, Hancock, Emmet, and Winnebago; and the *eleventh*, Lyon, Osceola, Dickinson, Sioux, O'Brien, Clay, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, Sac, and Monona.<sup>6</sup>

<sup>1</sup> *Senate Journal*, p. 404.

<sup>2</sup> *Ibid*, pp. 688, 707, 736.

<sup>3</sup> *House Journal*, pp. 721, 744.

<sup>4</sup> *Senate Journal*, pp. 766, 773.

<sup>5</sup> April 10, 1886.

<sup>6</sup> *Laws of Iowa*, 21st G. A., Reg. Sess., p. 180.





The first district remained unchanged. Slightly Democratic in 1885 and surrounded by Democratic counties, it could not well be transformed into a sure Republican district. The odd new second district was formed by taking the Republican counties of Cedar and Jones away from the old second and replacing them by the strongly Democratic counties of Johnson and Iowa, thus adding nearly 1600 votes to the already heavy Democratic majority of the district, while a 500 Republican majority was released for use where it could be used to advantage. The elongated third and fourth were stretched still farther westward so as to include enough Republican counties to counteract the Democratic influence of Dubuque, Clayton, Allamakee and Fayette. Both were now unmistakably Republican. From the remnants of the old second, third, and fifth was pieced together a long new fifth, solidly Republican. The doubtful sixth remained unchanged, although various suggestions had been made with a view to assuring it to the dominant party.<sup>1</sup> The seventh lost Guthrie and Adair, gained Story and remained decidedly Republican. The eighth gained the Democratic county of Fremont, which its vigorous Republicanism readily assimilated. The ninth lost Democratic Fremont and Crawford and gained Republican Adair and Guthrie, and so became Republican by a small majority. The tenth exchanged Republican Worth, Cerro Gordo, Franklin, Wright, Hardin and Story for Democratic Crawford and Carroll and Republican Greene, Palo Alto, Pocahontas, Calhoun and Emmet, thus retaining its position beside the

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<sup>1</sup> *Ottumwa Democrat*, April 11, March 5, 1886; *Iowa State Register*, March 6, 1886.





depleted eleventh as an overwhelmingly Republican district. According, then, to the vote of 1885, eight of the new districts were Republican and three Democratic. Since that time various changes have taken place in the political sentiments of the voters in these several groups of counties.<sup>1</sup> In 1888 the Democrats lost two of their districts; in 1890 they succeeded in electing five congressmen; in 1892 they returned but one representative to Congress; while from 1894 to 1902 they failed to carry a single district. In the campaign of 1902, Judge M. J. Wade (Democrat of the second district) succeeded in breaking into the Iowa delegation. From time to time, bills have been introduced into the General Assembly for the reorganization of these congressional districts; but all have come to nought. It is the arrangement of 1886 which obtains to-day and which gives to the State of Iowa one Democratic and ten Republican representatives in the American Congress.

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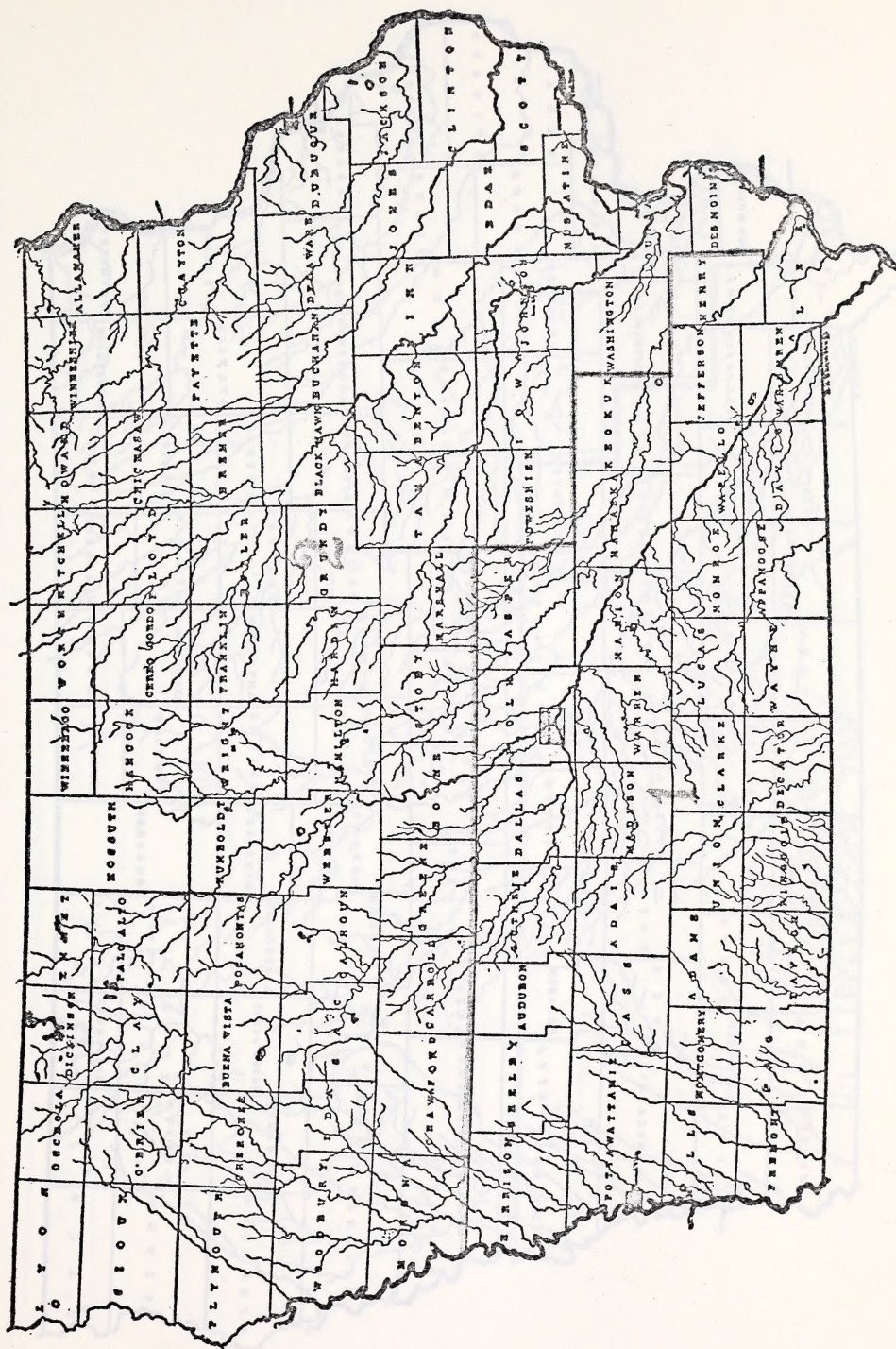
<sup>1</sup> This table gives the pluralities in each congressional district since the last districting. Democratic pluralities are marked D; Republican, R.

No. of Dist.	1886	1888	1890	1892	1894	1896	1898	1900	1902
1st District	R 1037	R 874	D 1071	R 629	R 3836	R 3295	R 3240	R 3368	R 1923
2nd District	D 7300	D 5032	D 9010	D 7772	R 436	R 3320	R 1282	R 1465	D 1158
3rd District	R 2929	R 4585	R 198	R 1459	R 1459	R 10423	R 7019	R 11325	R 5539
4th District	R 1930	R 2222	D 1949	R 1590	R 1590	R 8868	R 7619	R 10863	R 5023
5th District	R 733	R 2516	R 293	R 1098	R 5774	R 7368	R 5365	R 8858	R 5783
6th District	D 618	R 828	D 1520	R 1175	R 6836	R 1201	R 1471	R 3144	R 1813
7th District	R 926	R 5397	R 2545	R 6080	R 7225	R 6226	R 7652	R 12143	R 9123
8th District	D 2225	R 995	R 116	R 4331	R 4134	R 827	R 3824	R 5451	R 6861
9th District	R 2206	R 3694	D 1343	R 2478	R 3057	R 2382	R 4492	R 6948	R 7358
10th District	R 3899	R 5368	R 1311	R 4944	R 14357	R 10968	R 7403	R 15936	R 12774
11th District	R 4437	R 6259	R 907	R 1277	R 9981	R 6828	R 6283	R 12152	R 9133

—From *Iowa Official Registers*.







MAP I. Showing Congressional Districts according to Act of February 22, 1847

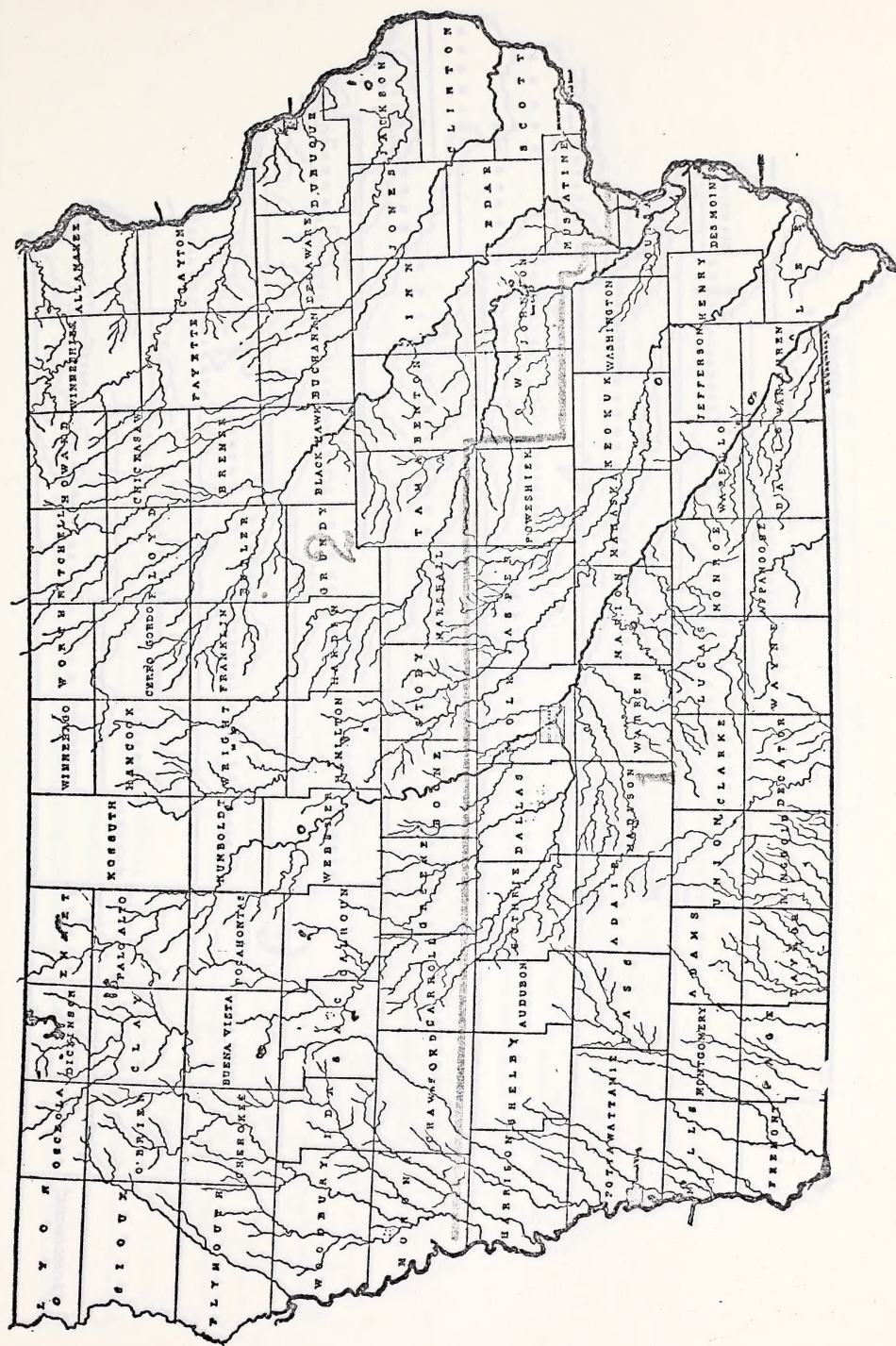








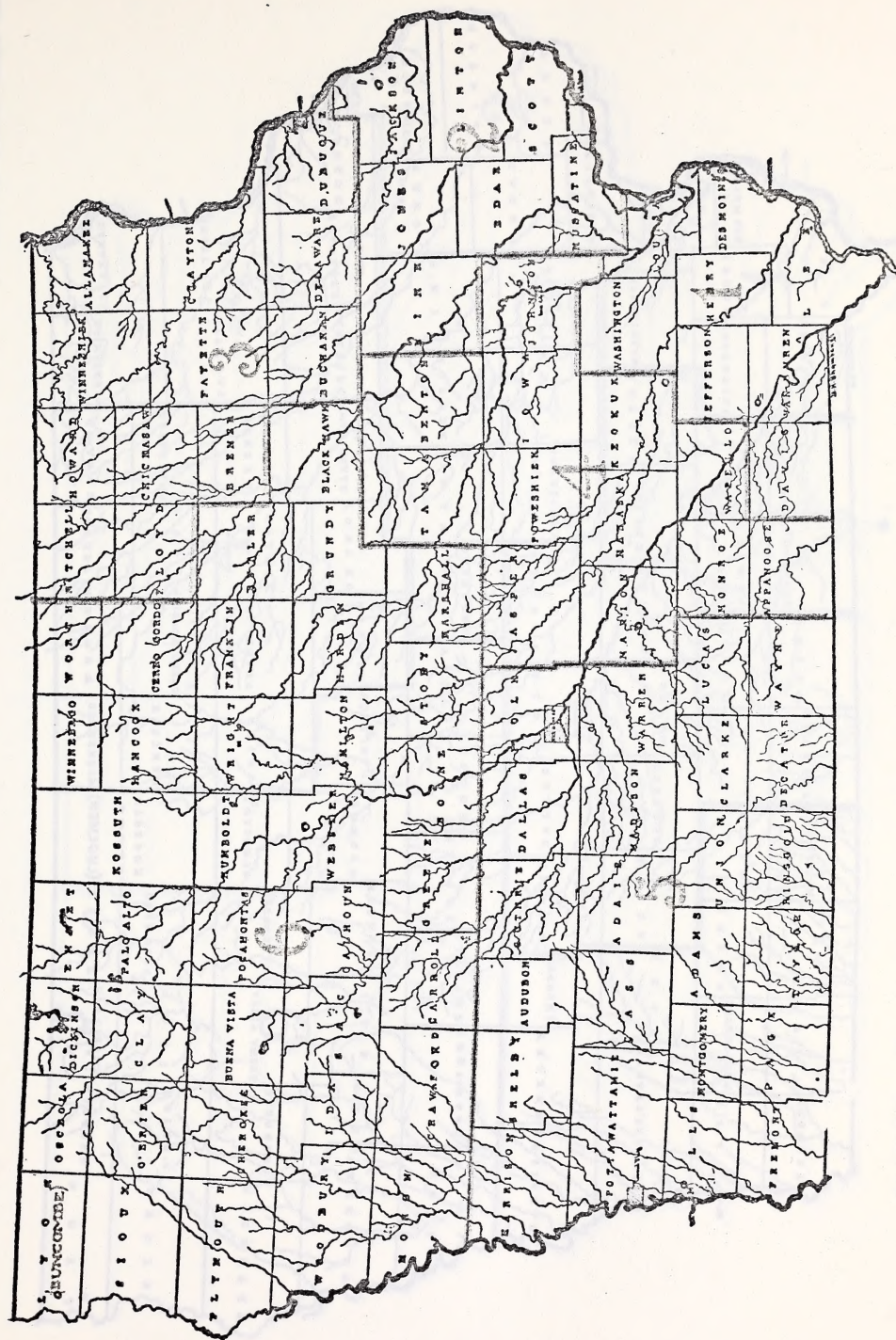




MAP III. Showing Congressional Districts according to Act of January 28, 1857



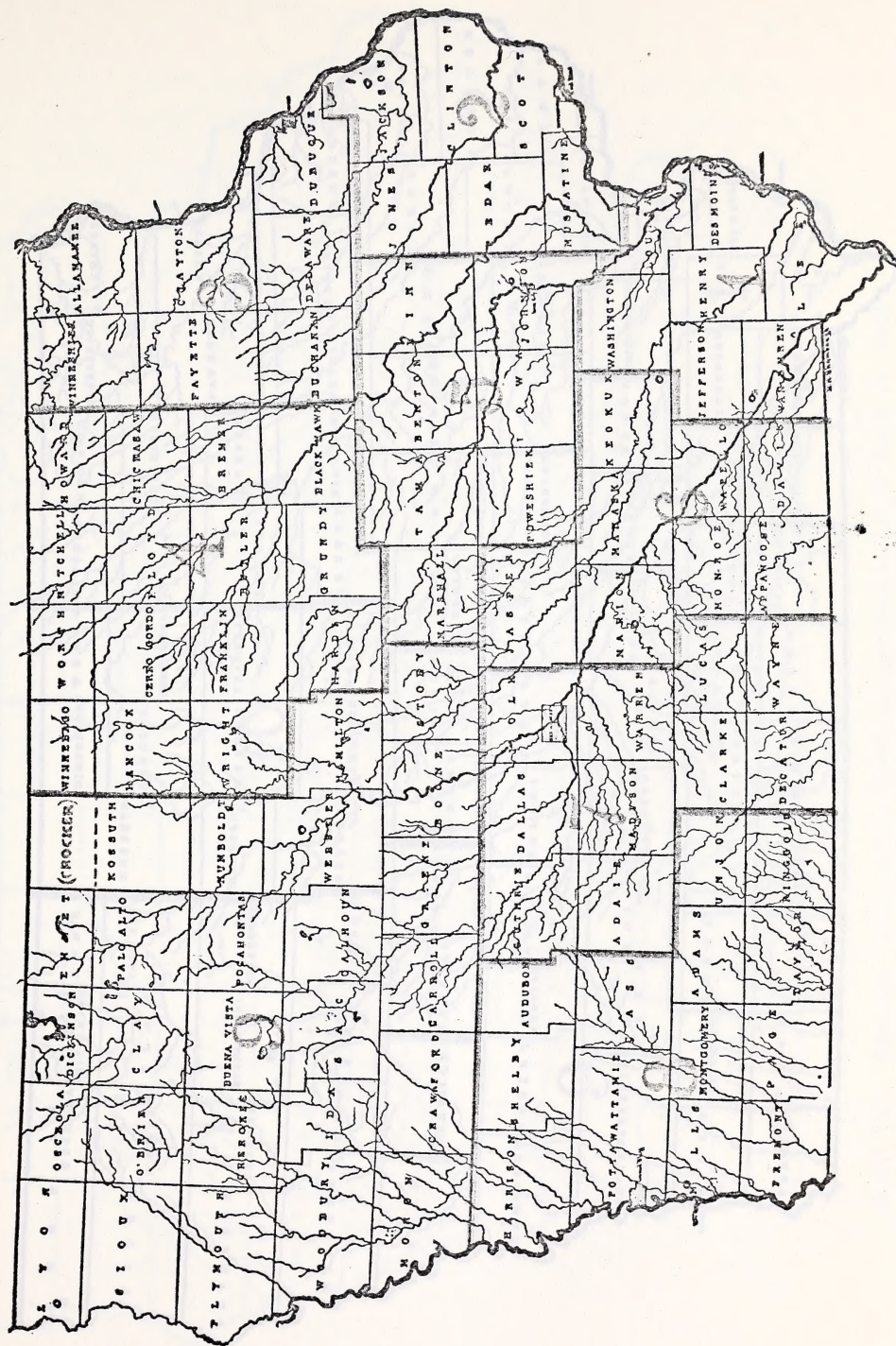




MAP IV. Showing Congressional Districts according to Act of April 8, 1862



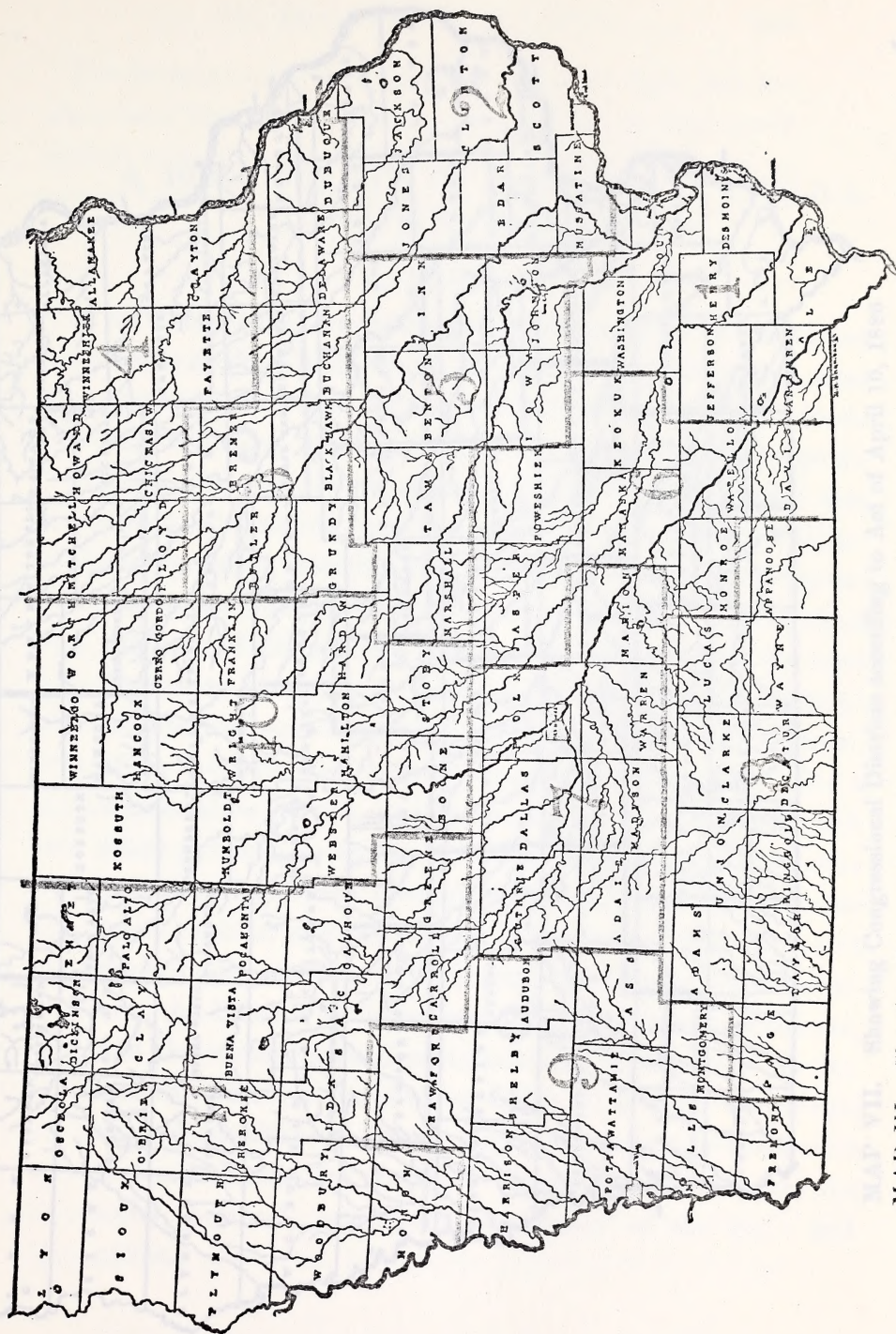




MAP V. Showing Congressional Districts according to Act of April 17, 1872



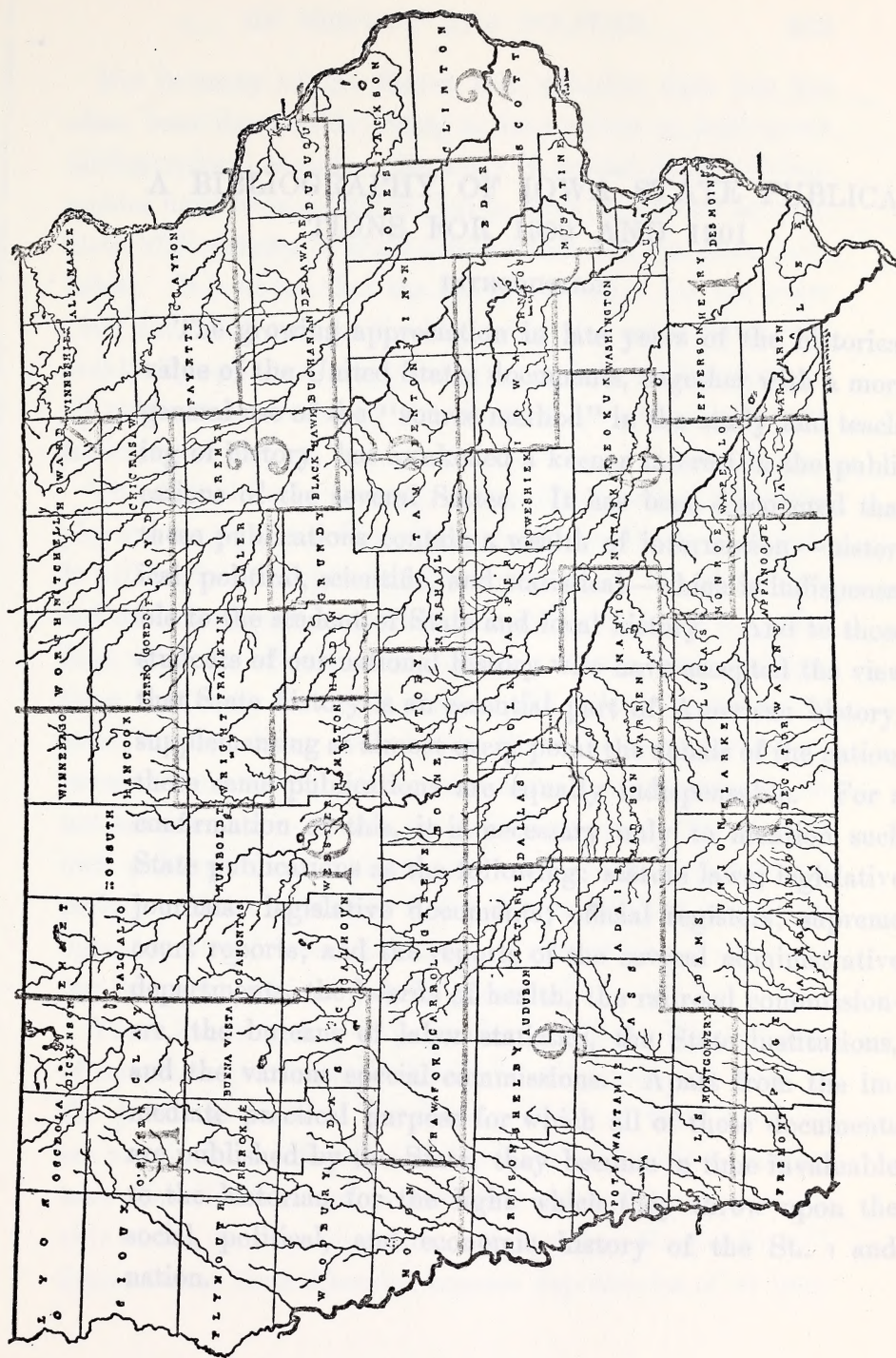




MAP VI. Showing Congressional Districts according to Act of March 22, 1929.







MAP VII. Showing Congressional Districts according to Act of April 10, 1886





## A BIBLIOGRAPHY OF IOWA STATE PUBLICATIONS FOR 1900 AND 1901

### INTRODUCTION

The growing appreciation in late years of the historical value of the United States documents, together with a more general use of the "source method" in the study and teaching of history, has awakened a keener interest in the publications of the several States. It has been discovered that these publications contain a wealth of information—historical, political, scientific, and statistical—which is indispensable to the student of State and local history. And to those students of our national history who have accepted the view that State history is an essential part of American history, supplementing at almost every point the annals of the nation, these same publications are equally indispensable. For a confirmation of this, it is necessary only to mention such State publications as the following: statute laws; legislative journals; legislative documents; official registers; supreme court reports; and the reports of the several administrative departments, the boards of health, the railroad commissioners, the bureaus of labor statistics, the State institutions, and the various special commissions. Apart from the immediate practical purpose for which all of these documents are published by the State, they become in time invaluable to the historian for the light which they throw upon the social, political, and economic history of the State and nation.





But in many of the States this valuable data has too often been inaccessible owing to incomplete or inadequate bibliographical records. Recently in several States bibliographies have been compiled; but in Iowa no regular or complete bibliography of State publications has yet been published. It is hoped that the list given below for the years 1900 and 1901 may be the beginning of a series which will eventually appear as a reasonably complete bibliography of all publications issued by the State of Iowa from its organization in 1846.

The difficulties in the way of compiling such a bibliography are very great. Completeness can hardly be expected. It will be found impossible to secure all of the pamphlets and miscellaneous documents which were published in earlier days when few efforts were made to preserve State publications for their historical value. No adequate provision seems to have been made by the State for their permanent preservation. Many of the administrative departments do not have in their offices in the capitol complete files of their own publications. This is true even of the last biennial period. These conditions make the compilation of a bibliography all the more necessary, so that at least a record of our State publications may be preserved.

There is one quarter in particular in which a bibliography of our State publications should be welcomed. I refer to the public libraries of the State. Many of these libraries are now in their infancy, and few have been able to undertake the collection and preservation even of the more valuable of the State publications. But in time the public will demand that these libraries become depositories of at least





the more important State documents and publications. A reliable and reasonably complete bibliography will then become indispensable to the public libraries as a check list.

The plan followed in the compilation of this bibliography is a simple alphabetical list of the departments, institutions, etc., each with its publications. In each case the title page of the publication is exactly quoted. The typography of titles and title pages is such as to make the problem of capitalization a difficult one in any bibliography. There is, perhaps, no system of rules with regard to capitalization which can satisfactorily be followed in quoting titles of publications. In this bibliography the usual library rules are followed, and capitals are avoided wherever practicable. The division of titles into lines on the title page is indicated by the insertion of uprights. Abbreviations used in describing the publications are as follows:

S. sixteenmo	p. pages	v. p. various paging
D. duodecimo	cl. cloth	illus. illustrations
O. octavo	sh. sheep	col. colored
por. portraits	pl. plates	pap. paper

The preparation of this bibliography was suggested to me by the editor of the IOWA JOURNAL OF HISTORY AND POLITICS, upon whose request the work was undertaken. To the officers in the State departments and institutions I am indebted for many courtesies, and especially to Mr. A. J. Small, of the Iowa State Library, whose ready assistance has made the task of compilation much less laborious than it otherwise would have been.

MARGARET BUDINGTON

THE STATE HISTORICAL SOCIETY OF IOWA  
IOWA CITY





## BIBLIOGRAPHY

## ACADEMY OF SCIENCES

Proceedings | of the | Iowa academy of sciences | for 1900. | Volume 8. | Edited by the secretary. | Published by the state. | Des Moines: | B. Murphy, state printer. | 1901. |

278 p. pl. O. cl.

Contents: Official directory. Constitution of the Academy. Members of the Academy. Proceedings of the fifteenth annual session. President's address, by W. H. Norton. Review of the Tettigonidae of North America north of Mexico, by E. D. Ball. Morphology and function of the amphibian ear, by H. W. Norris. Combination of chromic acid, acetic acid and formaline as a fixative for animal tissues, by H. W. Norris. Note on the time of sexual maturity in certain Unios, by H. M. Kelly. Influence of chlorine as chlorides in the determination of oxygen consumed in the analysis of water, by J. B. Weems and H. N. Grettenberg. Diphenyl ether derivatives, by Alfred N. Cook. Some recent analyses of Iowa building stones, also of potable waters, by Nicholas Knight. Contribution to the study of reversible reactions, by W. N. Stull. Depositional equivalent of hiatus at base of our coal measures; and the Arkansan series, a new terrane of the Carboniferous in the Western Interior Basin, by Charles R. Keyes. Names of coals west of the Mississippi river, by Charles R. Keyes. Volcanic necks of Piatigorsk, Southern Russia, by Charles R. Keyes. Comparison of media for the quantitative estimation of bacteria in milk, by C. H. Eckles. Method of isolating and counting gas producing bacteria in milk, by C. H. Eckles. Total solar eclipse of May 28, 1900, by David E. Hadden. Preliminary list of the flowering plants of Adair county, by James E. Gow. Juglandaceae of Iowa, by T. J. and M. F. L. Fitzpatrick. Betulaceae of Iowa, by T. J. and M. F. L. Fitzpatrick. Fagaceae of Iowa, by T. J. and M. F. L. Fitzpatrick. Shrubs and trees of Madison county, by H. A. Mueller. Terrace formation in the Turkey river valley in Fayette county, Iowa, by G. E. Finch. Pure food laws, by C. O. Bates. Notes on the early development of *Astragalus caryocarpus*, by F. W. Faurot. Thistles of Iowa, with notes on a few other species, by L. H. Pammel. Bacteriological investigation of the Iowa state college sewage, by L. R. Walker. Notes on the bacteriological analysis of water, by L. H. Pammel. Drift exposure in Tama county, by T. E. Savage.

Proceedings | of the | Iowa academy of sciences | for 1901. | Volume 9. | Edited by the secretary. | Published by the state. | Des Moines: | B. Murphy, state printer. | 1902. |

244 p. O. pl. cl.

Contents: Officers of the Academy. Members of the Academy. Proceedings of the sixteenth annual session. Presidential address, by A. A. Veblen. Some improved laboratory devices and apparatus, by A. A. Veblen. Study in the hereditary transmission of finger patterns, by A. A. Veblen. Factors of extinction, by Herbert Osborn. Forestry in Iowa, by B. Shimek. Analyses of certain clays used for making paving brick for Cedar Rapids, by C. O. Bates. Sanitary analy-





sis of some Iowa deep well waters, by J. B. Weems. Chemical composition of sewage of the Iowa state college sewage plant, by J. B. Weems, J. C. Brown, and E. C. Myers. Menke's method of preparing hyponitrites, by Alfred N. Cook. Calcium carbide as a dehydrating agent for alcohols, by Alfred N. Cook and Arthur L. Haines. Sioux City water supply, by Alfred N. Cook and C. F. Eberly. Igneous rocks of the Central Caucasus, and the work of Loewinson-Lessing, by Charles R. Keyes. Evidences of recent uprisings of the shores of the Black Sea, by Charles R. Keyes. Devonian hiatus in the continental interior—its character and depositional equivalents, by Charles R. Keyes. Paroxymetamethylacetophenone and some of its derivatives, by J. G. Goodwin. On the occurrence of rhizopods in the Pella beds in Iowa, by J. A. Udden. Pleuroptyx in Iowa coal measures, by J. A. Udden. University of Montana biological station, by Maurice Ricker. A large red hydra, by Maurice Ricker. Some new double bromides and their dissociation in aqueous solution, by Nicholas Knight. Vascular cryptogams of Iowa and the adjoining parts of southeastern Minnesota and western Wisconsin, by L. H. Pammel and Charlotte M. King. Preliminary notes on the flora of western Iowa, especially from the physiographical ecological standpoint, by L. H. Pammel. Ruling engine for making zone plates, by W. M. Boehm. List of plants collected in Lee county, Florida, by A. S. Hitchcock. Ustilaginæ of Iowa, by H. H. Hume.

#### ADJUTANT GENERAL

Report | of the | adjutant-general | to the | governor | of the | state  
of Iowa | for biennial period ending November 30, 1901 | Printed by  
order of the General assembly | Des Moines | B. Murphy, state printer |  
1900. |

101 + 147 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 2.

#### AGRICULTURAL DEPARTMENT

The | Iowa year book of agriculture | issued by the Iowa department  
of agricul | ture, succeeding the forty-sixth | annual report of the Iowa  
state | agricultural society. | Containing information for the closing  
year of the Iowa state | agricultural society, legislated out of exist-  
ence by | chapter 58, Acts of the twenty-eighth General | assembly,  
the act establishing the Iowa | department of agriculture. | Also | Re-  
port of the Iowa | state fair | for the year 1900. | Full report of the  
State farmers' institute for the year 1900; State | agricultural conven-  
tion for the year 1900; meeting of the State | board of agriculture; re-  
port of meeting of State fair | managers, with extracts from the report  
of the Iowa | state dairy commissioner, State dairy association, 'Iowa





agricultural experiment station, Iowa | weather and crop service, Improved | stock breeders' association; also, papers | read at county farmers' institutes, | reports of local, county and | district fairs, statistics and | other things of interest. | Edited by | G. H. Van Houten, secretary of agriculture. | Des Moines. | B. Murphy, state printer. | 1901. | 675 p. por. pl. O. cl.

The | Iowa year book of agriculture | issued by the Iowa department of agriculture | containing | full report of the State farmers' institute for the year 1901; State | agricultural convention for the year 1901; meeting of the State | board of agriculture; report of meeting of State fair managers, with extracts from the report of the Iowa | state dairy commissioner, State dairy association, | Iowa agricultural experiment station, Iowa | weather and crop service, Improved | stock breeders' association; also, papers | read at county farmers' institutes, | reports of local county and | district fairs, statistics and | other things of interest. | Also | report of the Iowa state fair for the year 1901 | Edited by | J. C. Simpson, | secretary State board of agriculture. | Des Moines. | B. Murphy, state printer. | 1902. |

667 p. por. pl. O. cl.

Iowa state fair catalogue | containing | rules and premium list | for the | forty-sixth annual exhibition | under the auspices of the | State board of agriculture | to be held at | Des Moines, Iowa, | the capital and great railway center of the state, | Friday-Saturday-Sunday-Monday-Tuesday-Wednesday-Thursday | Friday and Saturday, August 24-25-26-27-28-29-30-31 and Sept. 1, 1900. | Read the rules carefully, that you may conform with them when | you make your entries, and avoid errors and misunderstandings. | For special premiums see latter pages of the book | Des Moines: | The Homestead co. | 1900. |

77 p. O. pap.

Iowa state fair catalogue | containing | rules and premium list | for the | forty-seventh annual exhibition | under the auspices of the | State board of agriculture | to be held at | Des Moines, Iowa, | the capital and great railway center of the state, | Friday-Saturday-Sunday-





Monday-Tuesday-Wednesday-Thursday | Friday and Saturday, August 23-24-25-26-27-28-29-30-31, 1901. | Read the rules carefully, that you may conform with them when | you make your entries, and avoid errors and misunderstandings. | For special premiums see latter pages of the book | Des Moines: | The Homestead co. | 1901. | 59 p. O. pap.

United States | Department of agriculture, | Weather bureau. | Annual report | of the | Iowa weather and crop service | in co-operation with the | United States weather bureau, | for the year 1900. | John R. Sage, director. | Geo. M. Chappel, local forecast official | U. S. weather bureau | assistant director. | Printed by order of the general assembly. | Des Moines: | B. Murphy, state printer, | 1901. | 55 p. O. pap.

U. S. Department agriculture—Weather bureau. Monthly review of the Iowa weather and crop service. Volume 11. January-December 1900. Nos. 1-12.

No general title page is issued for the monthly numbers of the Monthly review. The annual report of the department is supposed to serve as a condensation of the information contained in the Monthly review. No. 12 of the Review for each year contains a summary for the year.

U. S. Department agriculture—Weather bureau. Monthly review of the Iowa weather and crop service. Volume 12. January-December, 1901. Nos. 1-12.

#### ATTORNEY GENERAL

Second biennial report | of the | attorney-general | of the | state of Iowa. | Charles W. Mullan, | attorney-general. | Transmitted to the governor, January, 1902. | Printed by order of the General assembly. | Des Moines: | B. Murphy, state printer. | 1902. |

217 p. O. Pap.

Contained also in the set of Iowa documents, 1902, vol. 3.

#### AUDITOR OF STATE

Biennial report | of the | auditor of state | to the | governor of Iowa | July 1, 1901 | Frank F. Merriam, auditor of state | Printed by order





of the General assembly | Des Moines | Bernard Murphy, state printer | 1901. |

535 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 1.

Thirty-first annual | report | of the | auditor of state | of the state of Iowa | on | insurance | 1900, | Volume 1. | Frank F. Merriam | auditor of state. | Compiled from annual statements, for the year ending December 31, 1899. | Des Moines: | F. R. Conaway, state printer. | 1900. |

404 p. O. cl.

Contained also in the set of Iowa documents, 1900, vol. 7.

Thirty-first annual | report | of the | auditor of state | of the state of Iowa | on | insurance | 1900, | Volume 2 | Life | Frank F. Merriam, | auditor of state. | Compiled from annual statements, for the year ending December 31, 1899. | Des Moines: | F. R. Conaway, state printer. | 1900. |

504 p. O. cl.

Contained also in the set of Iowa documents, 1900, vol. 7.

Thirty-second annual report | of the | auditor of state | of the state of Iowa | on | insurance | 1901 | Volume 1 | Frank F. Merriam | auditor of state | Compiled from annual statements, for the year ending December 31, 1900 | Des Moines: | Bernard Murphy, state printer | 1901. |

520 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 6.

Thirty-second annual report | of the | auditor of state | of the state of Iowa | on | insurance | 1901 | Volume 2 | Life | Frank F. Merriam | auditor of state | Compiled from annual statements, for the year ending December 31, 1900 | Des Moines: | Bernard Murphy, state printer | 1901. |

509 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 6.

The insurance reports contain the annual statements and statistical tables showing the condition and business of all life and fire insurance companies doing business in Iowa for the period given.





Revenue laws | of the | state of Iowa | compiled in pursuance of |  
section 1369 of the code | by | Frank F. Merriam, | auditor of state |  
Give this to county auditor when assessment is finished | Des Moines |  
B. Murphy, state printer | 1901. |

452-553 + 86 p. O. pap.

Containing in addition to the revenue laws of Iowa, all laws relating to taxation,  
so far as they affect the duties of the board of supervisors, county auditors, town-  
ship clerks and assessors; and the amendments of the 27th general assembly, 1898.

#### BOARD OF CONTROL OF STATE INSTITUTIONS

Second biennial report | of the | Board of control | of | state insti-  
tutions | of | Iowa | for the biennial period ending June 30, 1901. |  
Des Moines | B. Murphy, state printer | 1901. |

748 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 5.

The annual report of the Board of control is divided into three parts, part 1 con-  
taining general statements in regard to the condition of the several institutions and  
recommendations to the legislature for their proper care, part 2 consisting of sta-  
tistical and financial tables, and part 3 presenting the reports for the period of the  
chief executive officers of the institutions under the charge of the Board of control.

Bulletin | of | Iowa institutions | (Under the Board of control) |  
Published quarterly | Volume 1. | 1900 | Geo. A. Miller printing co., |  
Des Moines. |

555 p. O. cl.

Bulletin | of | Iowa institutions | (Under the Board of control) |  
Published quarterly. | Volume 2 | 1900 | Herald printing co., | Du-  
buque. |

556 p. pl. O. cl.

Bulletin | of | Iowa institutions | (Under the Board of control) |  
Published quarterly | Volume 3 | 1901 | Welch printing company |  
Des Moines. |

339 p. pl. O. cl.

These bulletins contain many articles giving information in regard to the  
charitable and penal institutions in the state, particularly those dealing with  
the labor problem and with the often asked question, "Do reformatories reform?"  
Among the papers on the education of the blind and the deaf is one that describes  
at length the different systems of embossed print; there are a large number of  
articles on the care of the insane, together with a history of the several Iowa state  
institutions.



## COLLEGE FOR THE BLIND

Biennial report | of the | superintendent | of the | College for the blind | at | Vinton, Iowa | to the | Board of control of state institutions | for the period ending June 30, 1901 | Glenwood, Iowa | State institution press | 1902. |

27 p. O. pap.

## CUSTODIAN OF PUBLIC BUILDINGS

Report | of the | custodian of public buildings | and property | to the | governor of Iowa, | for the years 1900 and 1901. | January 1, 1902. | J. D. McGarraugh | custodian of public buildings and property | Des Moines | B. Murphy, state printer. | 1902. |

61 p. pl. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 1.

## DAIRY COMMISSIONER

Fourteenth annual report | of the | state dairy commissioner | to the | governor of the state of Iowa | for the year 1900. | B. P. Norton, | state dairy commissioner. | Printed by order of the General assembly. | Des Moines: | F. R. Conaway, state printer | 1900. |

129 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 5.

Fifteenth annual report | of the | state dairy commissioner | to the | governor of the state of Iowa | for the year 1901. | B. P. Norton, | state dairy commissioner. | Printed by order of the General assembly. | Des Moines: | B. Murphy, state printer. 1901. |

115 p. O. pap.

Continued also in the set of Iowa documents, 1902, vol. 5.

## EXECUTIVE COUNCIL

Report | of the | Executive council of Iowa | of | expenses and disposition of fees and monies | collected of state officers and | institutions | for the period from | January 1, 1900, to July 1, 1901. | Made in compliance with requirements of chapter | six, acts of twenty-eighth General | assembly. | Des Moines: | B. Murphy, state printer, | 1901. |

365 p. O. pap.





Twenty-ninth annual report | of the | assessed valuation | of | railroad property | in the | state of Iowa | as fixed by the | Executive council of the state | March 23, 1900 | Compiled by A. H. Davison | secretary of executive council | Printed by order of the twenty-eighth General assembly | Des Moines | F. R. Conaway, state printer | 1900. |

55 p. O. pap.

Contained also in the set of Iowa documents, 1900, Vol. 3.

Containing, in addition to the statistical tables which form the main part of the report, a nine page list of the principal officers of the railroads of the state, with post office addresses; also the laws governing the assessment and taxation of railway property.

Thirtieth annual report | of the | assessed valuation | of | railroad property | in the | state of Iowa | as fixed by the Executive council of the state | March 23, 1901. | Compiled by A. H. Davison | secretary of executive council | Printed by authority of chapter four, acts twenty-eighth | General assembly. | Des Moines | Bernard Murphy, state printer. | 1901. |

61 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 2.

#### FISH AND GAME WARDEN

Fourteenth biennial report | of the | state fish and game warden | to the | governor of the state of Iowa | 1900-1901 | Geo. A. Lincoln, warden. | Printed by order of the General assembly. | Des Moines: | B. Murphy, state printer. | 1902. |

22 p. pl. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 4.

#### GENERAL ASSEMBLY

Acts and resolutions | passed at the | regular session | of the | twenty-eighth General assembly | of the | state of Iowa. | Begun January 8 and ended April 6, 1900. | Published under authority of the state. | Des Moines: | F. R. Conaway, state printer. | 1900. |

206 p. Q. sh.

Rules and standing | committees | of the | twenty-eighth General assembly | 1900. | Printed by order of the General assembly. | Des Moines: | F. R. Conaway, state printer. | 1900. |

68 p. O. pap.





Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state | Richard C. Barrett, superintendent of public instruction | Milton Remley, attorney-general | D. H. Bowen, speaker of the House of representatives | Volume 1 | Des Moines | F. R. Conaway, state printer | 1900 |

v. p. O. sh.

Contents: Governor's message. Governor's inaugural address. Report of auditor. Report of treasurer. Report of convictions.

Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state | Richard C. Barrett, superintendent of public instruction | Milton Remley, attorney-general | D. H. Bowen, speaker of the House of representatives | Volume 2 | Des Moines | F. R. Conaway, state printer | 1900 |

v. p. O. sh.

Contents: Report of superintendent of public instruction. Report of State university. Report of State normal school. Report of State agricultural college. Report of librarian. Report of State historical society. Report of Historical department. Report of custodian of public buildings. Report of Land department. Report of oil inspectors.

Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state | Richard C. Barrett, superintendent of public instruction | Milton Remley, attorney-general | D. H. Bowen, speaker of the House of representatives, | Volume 3 | Des Moines | F. R. Conaway, state printer | 1900 |

v. p. O. sh.





Contents: Railroad commissioners' report for 1898. Railroad commissioners' report for 1899. Railway assessment for 1899. Railway assessment for 1900. Report on pardons. Rules of the twenty-eighth General assembly. Report of mine inspectors.

Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state, | Richard C. Barrett, superintendent of public instruction | Milton Remley, attorney-general. | D. H. Bowen, speaker of the House of representatives | Volume 4 | Des Moines | F. R. Conaway, state printer | 1900 |

v. p. pl. O. sh.

Contents: Board of health report. Bureau of labor statistics report. Dairy commissioner's report for 1898. Dairy commissioner's report for 1899. Pharmacy commissioners' report. State veterinary surgeon's report.

Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state | Richard C. Barrett, superintendent of public instruction | Milton Remley, attorney-general | D. H. Bowen, speaker of the House of representatives | Volume 5 | Des Moines | F. R. Conaway, state printer | 1900 |

v. p. O. sh.

Contents: Report of attorney-general. Report of adjutant-general. Weather and crop service report for 1898. Weather and crop service report for 1899. Report of Improved stock breeders' association. Report of fish commissioner.

Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state | Richard C. Barrett, superintendent of public instruc-





tion | Milton Remley, attorney-general | D. H. Bowen, speaker of the House of representatives | Volume 6 | F. R. Conaway, state printer | 1900 |

v. p. O. sh.

Contents: Report of the Board of control.

Legislative documents | submitted to the | twenty-eighth General assembly | of the | state of Iowa | which convened at Des Moines, January 8, 1900 | Leslie M. Shaw, governor | J. C. Milliman, lieutenant-governor and president of the senate | G. W. Dobson, secretary of state | Frank F. Merriam, auditor of state | John Herriott, treasurer of state | Richard C. Barrett, superintendent of public instruction | Milton Remley, attorney-general | D. H. Bowen, speaker of the House of representatives | Volume 7 | Des Moines | F. R. Conaway, state printer | 1900 |

v. p. O. sh.

Contents: Insurance report for 1899. Volume 1, Insurance report for 1900. Volume 2, Insurance report for 1900.

For reprint of statute laws, 1838-39, see Historical department of Iowa.

#### GEOLOGICAL SURVEY

Iowa | geological survey | Volume 11. | Administrative reports | Samuel Calvin, A.M., Ph.D., state geologist | A. G. Leonard, assistant state geologist | Des Moines: | Published for the Iowa geological survey | 1901 |

519 p. pl. maps, Q. cl.

Contents: Administrative reports. Mineral production of Iowa in 1900, by S. W. Beyer. Geology of Louisa county, by J. A. Udden. Geology of Marion county, by B. L. Miller. Geology of Pottawattamie county, by J. A. Udden. Geology of Cedar county, by W. H. Norton. Geology of Page county, by Samuel Calvin. Geology of Clay and O'Brien counties, by T. H. Macbride.

Some of the more valuable features of the volume are: (1) The discussion, by the state geologist, of the often asked question, "Why do we not find gold, silver, petroleum, natural gas, salt, etc., in Iowa?" He summarizes the conditions under which these minerals are deposited and the relations in which they are found, reviews the geological history of the state and shows that the necessary conditions and relations are not found, and probably never existed in Iowa. (2) The statistics of the mineral production of the state for the year 1900, in which it is shown that the total value of these products was about \$10,000,000, of which coal fur-





nished about 70 per cent and clay about 22 per cent. Separate tables show the coal, the clay, the stone and the total mineral production by counties. (3) The discussion of the physiography or physical geography of the various counties, in which are treated the development of the various types of topography; the origin and history of the drainage systems; the general elevation of the region, etc.; the distribution of the various rock formations, their lithologic characters, geologic age and organic remains; the treatment of the mantle rock residual clays, glacial deposits, alluvium, soils, etc.; the water supply and artesian conditions, well records etc.; the economic products of the various counties surveyed during the year.

Iowa | geological survey | Volume 12 | Annual report, 1901, | with |  
accompanying papers. | Samuel Calvin, A.M., Ph.D., state geologist |  
A. G. Leonard, assistant state geologist | Des Moines; | Published  
for the Iowa geological survey | 1902. |

511 p. pl. maps, Q. cl.

Contents: Administrative reports. Mineral production in Iowa for 1901, by S. W. Beyer. Geology of Webster county, by F. A. Wilder. Geology of Henry county, by T. E. Savage. Geology of Cherokee and Buena Vista counties, with notes on the limits of the Wisconsin drift as seen in northwestern Iowa, by T. H. Macbride. Geology of Jefferson county, by J. A. Udden. Geology of Wapello county, by A. G. Leonard.

The volume contains the administrative report by the state geologist, and reports on the mineral production of the state and the geology of Webster, Henry, Cherokee, Buena Vista, Jefferson and Wapello counties. Some of the more valuable features of the volume are: The report by the state geologist which contains a bibliography (with contents tables) of the publications of the Survey, a review of the work accomplished by the Survey, particularly in glacial geology, and a further discussion of the question of petroleum and natural gas in Iowa. The report on mineral production of the state for 1901, showing the total production in quantity and value of the various minerals, the production of the more important minerals by counties and the total production by counties; coal, clay, stone and gypsum make up nearly 99 per cent of the value. The report on the gypsum deposits of Webster county is accompanied by a very valuable article on gypsum, discussing the deposition, mining, uses and manufacture of cement, plaster, etc., together with a description of the gypsum industry of Germany, and a discussion of the possibilities of improvement in methods of manufacture and the extension of the industry in this state; the treatment of the physiography of the various counties is full, and is of great value to teachers of physical geography; the lithologic characters, distribution and age of the indurated rocks are discussed; the surfacial geology; the Pleistocene deposits; the economic products and possibilities, the artesian conditions and water supply.

Iowa geological survey | Bulletin No. 1 | The | grasses of Iowa |  
Des Moines, Iowa | 1901. |

525 p. col. pl. O.





By L. H. Pammel, J. B. Weems, and F. Lamson-Scribner.

Contents: Grasses—Graminae. Purity and vitality of grass seed. Cereals. Fungus diseases of grasses. Bacterial diseases. Pastures and meadows of Iowa. Weeds of meadows and pastures. Chemistry of foods and feeding. Lawns and lawn making in Iowa.

Mineral production in Iowa | for 1900 | by S. W. Beyer. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 37-53. | Des Moines: | B. Murphy, state printer | 1901 | Geology | of | Louisa county | by J. A. Udden. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 55-126. | Des Moines: | B. Murphy, state printer | 1901 | maps.

Geology | of | Marion county | by B. L. Miller. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 127-197. | Des Moines: | B. Murphy, state printer | 1901 | map.

Geology | of | Pottawattamie county | by J. A. Udden. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 201-277. | Des Moines: | B. Murphy, state printer | 1901 | map.

Geology | of | Cedar county | by William Harmon Morton. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 279-396. | Des Moines: | B. Murphy, state printer | 1901 | maps.

Geology | of | Page county | by Samuel Calvin. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 397-460. | Des Moines: | B. Murphy, state printer | 1901 | map.

Geology | of | Clay and O'Brien counties | by Thomas H. Macbride. | From Iowa geological survey, vol. 11. | Annual report, 1900, pp. 461-508. | Des Moines: | B. Murphy, state printer | 1901 | maps, illus.

Mineral production in Iowa | for 1901. | By S. W. Beyer. | From





Iowa geological survey, vol. 12. | Annual report, 1901. pp. 37-61 |  
Des Moines: | B. Murphy, state printer | 1902 |  
pl. O. pap.

Geology | of | Webster county | by Frank A. Wilder | From Iowa  
geological survey, vol. 12. | Annual report, 1901, pp. 63-235. | Des  
Moines: | B. Murphy, state printer, | 1902. |  
pl. maps, O. pap.

Geology | of | Henry county | by T. E. Savage. | From Iowa geo-  
logical survey, vol. 12. | Annual report, 1901, pp. 237-302. | Des  
Moines: | B. Murphy, state printer, | 1902. |  
illus. map, O. pap.

Geology | of | Cherokee and Buena Vista counties | with notes on  
the limit of the Wisconsin drift as seen | in northwestern Iowa. | By  
Thomas H. Macbride. | From Iowa geological survey, vol. 12. | An-  
nual report, 1901, pp. 303-353. | Des Moines: | B. Murphy, state  
printer, | 1902. |  
maps, O. pap.

Geology | of | Jefferson county | by J. A. Udden. | From Iowa  
geological survey, vol. 12. | Annual report, 1901, pp. 355-436. |  
Des Moines: | B. Murphy, state printer, | 1902. |  
map, O. pap.

Geology | of | Wapello county | by A. G. Leonard. | From Iowa  
geological survey, vol. 12. | Annual report, 1901, pp. 439-499. | Des  
Moines: | B. Murphy, state printer, | 1902. |  
illus. map, O. pap.

#### GOVERNOR

Report | by the | governor of Iowa | of | pardons, suspensions of  
sentence | commutations and remissions of fines. | From January 10,  
1898, to January 10, 1900. | Printed by order of the General assem-  
bly. | Des Moines: | F. R. Conaway, state printer. | 1900. |

58 p. O. pap.

Contained also in the set of Iowa documents, 1900, vol. 3.





Inaugural address | of | Leslie M. Shaw | governor of the state of Iowa | delivered | at his second inauguration | January 11, 1900 | Printed by order of the General assembly. |

19 p. O. pap.

Contained also in the set of Iowa documents, 1900, vol. 1.

Biennial message | of | Leslie M. Shaw | governor of the state of Iowa | to the | twenty-eighth General assembly | January, 1900 | printed by authority of the General assembly | Des Moines | F. R. Conaway, state printer | 1900 |

40 p. O. pap.

Contained also in the set of Iowa documents, 1900, vol. 1.

#### HEALTH, STATE BOARD OF

Eleventh | biennial report | of the | Board of health | of the | state of Iowa | for the | period ending June 30, 1901. | [Seal] | Des Moines: | B. Murphy, state printer. | 1901. |

517 p. pl. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 4.

Iowa health bulletin. | Published by | the State board of health. | Josiah Forrest Kennedy, editor. | [Notice, 1 line] | Vol. 13. Des Moines, January-[May,] 1900. No. 8-[12.] |

97-192 p. O. pap.

Iowa health bulletin. | Published by | the State board of health. | Josiah Forrest Kennedy, editor | [Notice, 1 line] | Vol. 14, Des Moines, June, 1900-[May, 1901,] No. 1-[12.] |

16-192 p. O. pap.

After no. 8, published at Denison, Iowa.

#### HISTORICAL DEPARTMENT OF IOWA

Fifth biennial report | of the | Historical department | of | Iowa. | Made to the trustees of the state library, | November 1, 1901. | By Charles Aldrich, | curator. | Printed by order of the General assembly. | Des Moines | B. Murphy, state printer | 1901 |

70 p. por. pl. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 3.



The | annals of Iowa. | A historical quarterly. | Volume four—  
third series. | Edited by | Charles Aldrich, A. M., | [5 lines] | Pub-  
lished by the | Historical department of Iowa, | Des Moines. | 1899-  
1901. |

Nos. 4-8, January, 1900-January, 1901.

The | annals of Iowa. | A historical quarterly. | Volume five—  
third series. | Edited by | Charles Aldrich, A. M., | [6 lines] | Pub-  
lished by the | Historical department of Iowa, | Des Moines, | 1901-  
1903. |

Nos. 1-3, April-October, 1901.

The statute laws | of the | territory of Iowa, | enacted at the first  
session of the Legislative | assembly of said territory, held at | Bur-  
lington, A. D. 1838-39. | Published by authority. | Du Buque: |  
Russell & Reeves, printers. | 1839. | Reprinted by the | Historical  
department of Iowa, | 1900. |

634 p. O. sh.

#### HORTICULTURAL SOCIETY

Report | of the | Iowa state horticultural society | for the year 1900 |  
containing proceedings of the | thirty-fifth annual session, | held at |  
Des Moines, December 11, 12, 13, 14, 1900, | also, transactions of  
the | southeastern, northeastern, northwestern and | southwestern  
horticultural societies. | Edited by the secretary. | Volume 35. | Pub-  
lished by order of the General assembly. | Des Moines | Bernard  
Murphy, state printer | 1901 |

578 p. pl. O. cl.

Report | of the | Iowa state horticultural society | for the year  
1901, | containing the proceedings of the thirty-sixth annual session, |  
held at | Des Moines, December 10, 11, 12, 1901, | also transactions  
of the southeastern, northwestern, northeastern and | southwestern  
horticultural societies. | Edited by the secretary. | Volume 36. | Pub-  
lished by the order of the General assembly. | Des Moines | Bernard  
Murphy, state printer | 1902 |

622 p. pl. O. cl.





Programme | of the | thirty-fifth annual convention | of the | Iowa | state horticultural society | to be held in the horticultural | room in the capitol | Des Moines | December 11, 12, 13 and 14, | 1900 | You are invited to attend and take | part in the discussions |

8 p. S. pap.

Programme | of the | thirty-sixth annual convention | of the | Iowa | state horticultural society | to be held in the horticultural | room in the capitol | Des Moines | December 10, 11 and 12, 1901 | You are invited to attend and take | part in the discussions |

8 p. S. pap.

#### HOUSE OF REPRESENTATIVES

Journal of the House | of the | twenty-eighth General assembly | of the | state of Iowa | which convened at the capitol at Des Moines, | January 8, 1900. | Des Moines: | F. R. Conaway, state printer, | 1900. | 1343 p. O. sh.

#### INDUSTRIAL SCHOOL FOR GIRLS AT MITCHELLVILLE

Seventeenth biennial report | of the | superintendent | of the | Industrial school for girls | at | Mitchellville | to the | Board of control of the state institutions | for the period ending June 30, 1901 | Glenwood, Iowa | State institution press | 1902 |

25 p. O. pap.

#### INSTITUTION FOR FEEBLE MINDED CHILDREN

Thirteenth biennial report | of the | superintendent | of the | Iowa institution | for | feeble-minded children | at Glenwood | to the | Board of control of the state institutions | for the period ending June 30, 1901. | Glenwood institution press | 1901 |

44 p. O. pap.

#### LABOR STATISTICS, BUREAU OF

Ninth biennial report | of the | Bureau of labor statistics | for the | state of Iowa | 1899-1900 | C. F. Wennerstrum | commissioner | Des Moines: | B. Murphy, state printer. | 1901 |

598 p. O. cl.





Contents: Factory inspection. Manufacturing industries of Iowa. Wage earners of Iowa. Railroad statistics of Iowa. Trade unions in Iowa. Co-operation and profit sharing. Locations for new industries in Iowa. Manual training in Iowa. Strikes in Iowa. Lockouts in Iowa. The shorter work day in the United States. Cost of labor bureaus in the United States. Statutory investigation in Iowa. Introductory to the manufacturing statistics, by W. R. Patterson. Value and influence of labor statistics, by Carroll D. Wright. Some of the economic and industrial phases of the Amana society or the Community of true inspiration, by Mrs. Bertha H. Shambaugh. The kindergarten as an educational force, by Francis E. Cook. Manual training versus trade schools, by Caloni Milton Woodward. Icarian colony of Iowa. Free employment offices in the United States, by Kate B. Miller. Labor laws of the state of Illinois. The workings of the Department of labor, by Carroll D. Wright. Labor laws of Iowa.

This report is full of interest to the practical student of sociology. Carefully prepared statistics and accounts are given regarding problems of current interest, relative to the growth and development of the factory system and of organized labor in the state of Iowa. The special report by Mrs. Shambaugh on the Amana community is the most authentic account of the economic and industrial life of Iowa's one successful communistic society. A valuable paper giving a concise account of the history and functions of the Labor department is contributed by the Hon. Carroll D. Wright.

Contained also in the set of Iowa documents, 1902, vol. 4.

### The | law |

An 8 page pamphlet giving the law governing the Bureau of labor statistics, with the amendments made by the 29th General assembly, and new laws of 1902.

### LAND DEPARTMENT

Report | of the | secretary of state | to the | governor of Iowa, | of the | transactions of the Land department, | July 1, 1899 to June 30, 1901. | W. B. Martin, secretary of state. | Des Moines: | B. Murphy, state printer. | 1901 |

128 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 1.

### LIBRARY COMMISSION

Iowa library | commission | Des Moines, Ia. | Leaflet no. 1. | "Shall | a free | public library | be established?" |

20 p. T. pap.

Iowa library | commission, | Des Moines, Ia. | Leaflet no. 2. | Iowa | The anniversary of her | statehood | December 28 | A few books |





about Iowa | "The affections of | her people, like | the rivers of her |  
 borders, flow to an | inseparable union." |

12 p. T. pap.

Iowa library | commission | Des Moines, Ia. | Leaflet no. 3. | Peri-  
 odicals | their value and use | with something about indexes | to peri-  
 odicals, and information | regarding the collection and dis|tribution  
 of periodicals by the | Iowa library commission. |

12 p. T. pap.

Iowa library commission, | the capitol, | Des Moines, Ia. | 100 good  
 books for girls and boys. |

4 p. T. pap.

Shakespeare | A selection from | the literature pertaining | to his  
 life and works | for the use of study | clubs. Prepared by | the  
 library commit|tee of the Iowa fed|eration of women's | clubs and the  
 Iowa | library commission | These books will be loaned | by the  
 traveling library | department of the | Iowa state library |

4 p. T. pap.

Bulletin of the Iowa | library commission | Issued quarterly. Des  
 Moines, Iowa, January-[October,] 1901. Volume 1. Number 1-[4.] |

64 p. O. pap.

#### MINE INSPECTORS

Tenth biennial report | of the | state mine inspectors | to the | gov-  
 ernor of the state of Iowa | for the | two years ending June 30,  
 1901. | James A. Campbell, district no. 1; John Verner, district no.  
 2; | James W. Miller, district no. 3. | Printed by order of the Gen-  
 eral assembly | Des Moines: | Bernard Murphy, state printer. | 1901. |

97 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 4.

Iowa | mining laws | according to code of 1897. [1901] |

13 p. O. pap.

Report of commission | appointed to inquire into | and investigate  
 the mat|ters of | explosions in the | coal mines of Iowa |

14 p. O. pap.





## OIL INSPECTORS

Biennial report | of | inspectors of oils. | 1900-1901 | Compiled by W. B. Martin, secretary of state. | Printed by order of the General assembly. | Des Moines: | B. Murphy, state printer. | 1901. | 18 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 5.

## PENITENTIARY, ANAMOSA

Fifteenth biennial report | of the | warden of the penitentiary | at | Anamosa, Iowa, | to the | Board of control of state institutions | for the period ending June 30, 1901 | The prison press: | Penitentiary at Anamosa, Iowa. | 1902. |

73 p. pl. O. pap.

## PENITENTIARY, FORT MADISON

Biennial report | of the | warden | of the | Iowa state penitentiary | at | Fort Madison | to the | Board of control of state institutions | for the period ending June 30, 1901 | Glenwood, Iowa | State institution press | 1902. |

41 p. O. pap.

## PHARMACY COMMISSION

Eleventh biennial report | of the | commissioners of pharmacy | for the | state of Iowa | 1901 | Printed by order of the General assembly. | Des Moines. | B. Murphy, state printer. | 1901. |

18 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 5.

## PIONEER LAWMAKERS' ASSOCIATION OF IOWA

Pioneer | law makers' association | of Iowa. | Reunion of 1900, | held at Des Moines, February 14 and 15, 1900. | Seventh biennial session. | Published by authority of the state of Iowa. | Des Moines: | F. R. Conaway, state printer. | 1900. |

102 p. O. pap.

## PUBLIC INSTRUCTION, DEPARTMENT OF

Biennial report | of the | superintendent | of | public instruction | of the | state of Iowa | November 1, 1901 | Richard C. Barrett | super-





intendent of public instruction | Printed by order of the general assembly | Des Moines | B. Murphy, state printer | 1902 |

471 + 98 p. pl. O. cl.

Contents: Introductory remarks. Consolidation of schools and transportation of children. Recent school legislation in other states. Iowa state teachers' association. Education of Iowa teachers. School architecture. State certificates and diplomas. Free text books for public schools. Manual for high schools. Accredited high schools. Reports from county superintendents. Reports from higher institutions. National congress of mothers. Manual training. Miscellaneous: Medical inspection of schools. Necrology. Appendix: Statistics; General summary; Abstracts from reports of 1900; Abstracts from reports of 1901; index.

Inner cover reads:

State of Iowa | Department of public instruction | Des Moines | superintendent of public instruction | Richard C. Barrett | deputy superintendent | Albert C. Ross | stenographer | Byrdella Johnson | state board of educational examiners | Richard C. Barrett, *ex-officio* president, Des Moines | George E. MacLean, *ex-officio*, Iowa City | Homer H. Seerley, *ex-officio*, Cedar Falls | Hamlin H. Freer, Mt. Vernon | Mary Alice Bradrick, Chariton | [Notices, 3 lines] |

Being the Iowa school report for 1900-1901.

Contained also in the set of Iowa documents, 1902, vol. 3.

Iowa | educational directory | for the school year | commencing September, 1900 | Issued by the | Department of public instruction | November 15, 1900 | Des Moines | F. R. Conaway, state printer | 1900 |

unp. D. pap.

Iowa | educational directory | for the school year | commencing September, 1900 | Issued by the | Department of public instruction | November 15, 1901 | Des Moines | B. Murphy, state printer | 1901 | unp. D. pap.

Iowa state teachers' | association | A | high school | manual | issued under the direction | of a committee of twelve, | appointed by the general | association, | December, 1899 | 1901 | Des Moines, Iowa, December, 1901. |

133 p. O. pap.



Twenty-seventh | annual session | of the | Johnson county | normal institute | State university of Iowa, | Iowa City, Iowa | July 2nd to July 21st | 1900 |

52 p. T. pap.

Outside cover reads:

Hand-book | for | Johnson county teachers | and | normal institute | Announcement | 1900 |

Hand-book | for | Iowa schools | Edition of 1900 | Issued by the Department of public instruction | Richard C. Barrett | superintendent of public instruction | This book is the property of the school district | Des Moines: | F. R. Conaway, state printer. | 1900. |

194 p. O. pap.

A course of study for county, township and village schools, final report of committee on course of study for high schools, school law directly affecting teachers, and excerpts from the report of the committee of twelve relating to rural school improvement.

List of library books | for | school districts of Iowa | recommended by | the State board of educational examiners | Issued by the Department of public instruction | 1900 | Des Moines: | F. R. Conaway, state printer, | 1900. |

106 p. O. pap.

A graded and annotated list.

Manual | for | special day | exercises | 1901 | Issued by the Department of public instruction for use in the | schools of Iowa | Richard C. Barrett | superintendent of public instruction |

96 p. O. pap.

Outer cover reads:

Special days | Iowa public schools | 1901 | Issued by the Department of education | Richard C. Barrett, | supt. of public instruction | F. R. Conaway, | state printing house. |

Arbor Day | Friday, April 27, 1900 | [Cut of] motherwort and Virginia creeper. | Even a clump of weeds looks well in the corner by the house. | "Arbor Day is the only holiday which speaks for the future; all others celebrate the past." | State of Iowa | Department of public instruction |

4 p. O. pap.





Programme | of the | Central Iowa teachers' association | third annual meeting | held in | Boone, Iowa | February 20, 21 and 22, 1902 | Officers | president, E. D. Y. Culbertson, Des Moines | secretary, Carolyn Anderson, Marshalltown | treasurer, C. E. Moore, Waterloo | railroad secretary, R. V. Veneman, Boone | executive committee | chairman, J. C. King, Boone | F. E. Willard, Marshalltown. E. W. Fellows, Clarion | musical director | E. L. Coburn, Boone |

8 p. O. pap.

Program | of the | Northwestern Iowa | teachers' association | to be held in high school building, | twelfth and Jackson streets, | Sioux City, | April 19, 20 and 21, 1900. | Officers. | N. Spencer, Algona, president. | D. M. Odle, Hull, vice-president. | Agnes Robertson, Cherokee, recording secretary | F. M. Harding, Sioux City, railroad sec'y. | H. B. Pierce, Rock Rapids, treasurer. | Executive committee. | H. E. Kratz, Sioux City, chairman. | H. E. Blackmar, Emmetsburg. W. F. Cole, Webster City. |

6 p. O. pap.

Program | of the Southwestern | Iowa teachers' | association | to be held at | Council Bluffs, | November 1, 2 and 3, 1900. | Officers: | William Wilcox, Mt. Vernon, president. | Jessie G. Nutting, Glenwood, vice-president. | D. M. Kelley, Cedar Falls, recording secretary. | C. M. Peters, Creston, railroad secretary. | W. N. Clifford, Council Bluffs, | chairman executive committee |

8 p. S. pap.

State of Iowa | Department of | public instruction | Des Moines | Northeastern Iowa teachers' association | Clinton, October 18: 19: 20 | September 20, 1900 |

1 p. O. pap.

Program | of the | Southeastern Iowa | teachers' association | seventh annual session | Grinnell, Iowa, April 4, 5, 6, 1901 | [Cut of] Blair hall, Iowa College, Grinnell, Iowa. | Officers: | supt. J. F. Riggs, Sigourney, president. | county supt. C. M. Donaldson, Wapello, vice-president. | Miss Etta M. Bardwell, Ottumwa, sec-





retary. | Supt. F. W. Else, Mt. Pleasant, treasurer. | Supt. C. H. Carson, Marengo, chairman executive committee. | Supt. D. A. Thornburg, Grinnell, chairman local committees. | Prin. W. J. Samson, Burlington, railroad secretary. |

15 p. S. pap.

Circular of information | no. 2 | Relating to transportation of pupils | increased educational facilities | for advanced pupils | and township graded schools for all pupils | Issued by the Department of public instruction November 1, 1900 | Richard C. Barrett | superintendent | Des Moines | F. R. Conaway, state printer | 1900 |

10 p. O. pap.

State of Iowa | Department of | public instruction | Des Moines | Official call for spring conventions of | Iowa county superintendents | Richard C. Barrett | superintendent public instruction | Albert C. Ross, deputy | Des Moines, | B. Murphy, state printer. | 1902. |

4 p. O. pap.

State of Iowa | Department of | public instruction | Des Moines | Opinions of attorney-general |

Dated Jan. 17, 1901. Des Moines. 4 p. O. pap.

State of Iowa | Department of | public instruction | Des Moines | Official call | to county superintendents of Iowa: | Richard C. Barrett, | superintendent public instruction. | December 9, 1900. |

4 p. O. pap.

State of Iowa | Department of | public instruction | Des Moines | Official call. | To county superintendents of Iowa: | Richard C. Barrett, | superintendent public instruction. | December 9, 1901. |

4 p. O. pap.

State of Iowa | Department of | public instruction | Des Moines | Library circular [Oct. 1900.] |

4 p. O. pap.

#### RAILROAD COMMISSIONERS

Twenty-third annual report | of the | Board of railroad commissioners | for the | year ending June 30, 1900. | State of Iowa | Printed



by order of the General assembly. | Des Moines: | B. Murphy, state printer. | 1901. |

469 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 2.

Twenty-fourth annual report | of the | Board of railroad commissioners | for the | year ending June 30, 1901. | State of Iowa | Printed by order of the General assembly. | Des Moines. | B. Murphy, state printer. | 1902. |

633 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 2.

These reports contain a large amount of statistical information in regard to the returns of the railway companies in the state, their mileage and lists of officers and directors, the decisions of the commissioners on various railroad cases, and reports of accidents in Iowa. The report for 1901 contains, in addition, the Iowa freight classification no. 12, with which is incorporated the schedule of reasonable maximum rates of charges for the transportation of freight and cars.

Laws of Iowa | pertaining to | railways, express companies, etc., etc. | Appendix | to the | twenty-second annual report (1899) | of the | Board of railroad commissioners. | (Published by permission of the Executive council, from | the code of 1897, including session laws | of 1898 and 1900.) | Des Moines: | F. R. Conaway, state printer, | 1900 |

515 p. O. cl.

State of Iowa. | Schedule of reasonable | maximum rates of charges | for the transportation of | freight and cars | on each of the railroads of the state of Iowa, | together with a | classification of freights. | Prepared by the railroad commissioners, | in accordance with the laws of the state. Taking effect October 1, 1901. | Des Moines: | B. Murphy, state printer. | 1901. |

170 p. Q. pap.

Inner title page reads:

Iowa classification no. 12 | (taking effect October 1, 1901.) | with which is incorporated the schedule of | reasonable maximum rates of charges | for the transportation of | freight and cars, | and | classification of railroads. | Prepared by the board of railroad commissioners of the state of Iowa, in accordance with the laws of the state. |





Map of | Iowa | prepared and printed for the | railroad commis-  
sioners, | to accompany their report. | Rand, McNally & co., en-  
gravers, Chicago. |

Scale: 8 miles = 1 inch.

#### SCHOOL FOR THE DEAF

Twenty-fourth biennial report | of the | superintendent | of the |  
Iowa school for the deaf | at Council Bluffs, | to the | Board of con-  
trol of state institutions | for the period ending June 30, 1901 | Glen-  
wood, Iowa | State institution press | 1902 |

30 p. pl. O. pap.

#### SECRETARY OF STATE

Fifteenth year | Iowa | official | register | published by the | secre-  
tary of state | by order of | the General assembly. | 1900 |

492 p. por. D. cl.

Contents: Pt. 1: Early history of Iowa. Iowa constitution. Territorial and  
state officers. Pt. 2: State, district and county officers. Pt. 3: Board of control.  
State institutions. Iowa national guard. Pt. 4: Transactions of the Executive  
council for the year 1899. Pt. 5: Election statistics of the state election, 1899.  
Pt. 6: National election 1896. Statistics, party platforms, organizations, etc.  
Pt. 7: National and state governments. Treaty of peace. Our new possessions.  
Pt. 8: Miscellaneous statistics.

Sixteenth year | Iowa | official | register | published by the | secre-  
tary of state | by order of | the General assembly. | 1901 |

528 p. por. map, D. cl.

Contents: Organic law of Iowa. Admission of Iowa into the union. Con-  
stitution of Iowa. Pt. 2: State, district and county officers. Pt. 3: Board of  
control. State institutions. Iowa national guard. Library statistics. Pt. 4:  
Transactions of the Executive council for the year 1900. Pt. 5: Political plat-  
forms and parties. Iowa statistics of the general election 1900. Pt. 6: National  
and state governments. Military and civil governments of our new possessions.  
Pt. 7: U. S. Census statistics. Census of Cuba, Porto Rico and the Hawaiian  
islands. Miscellaneous statistics.

Report | of the | secretary of state | relating to | criminal convic-  
tions | for the years 1900 and 1901. | William B. Martin, secretary  
of state. | Printed by order of the | General assembly. | [Des Moines, |  
B. Murphy, state printer. | 1901.] |

149 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 1.





## SENATE

Journal of the Senate | of the | twenty-eighth General assembly | of the | state of Iowa | which convened at the capitol at Des Moines | January 8, 1900. | Des Moines: | F. R. Conaway, state printer, | 1900 |

1127 p. O. sh.

## SOLDIERS' ORPHANS' HOME

Eighteenth biennial report | of the | superintendent | of the | Iowa soldiers' orphans' home | at | Davenport | to the | Board of control of state institutions | for the period ending June 30, 1901 | Glenwood, Iowa | State institution press | 1902 |

31 p. pl. O. pap.

## STATE AGRICULTURAL COLLEGE

Nineteenth biennial report | of the | Iowa state college of agriculture | and the mechanic arts | made to | the governor of Iowa | for the years 1900-1901 | Printed by order of the General assembly, | Des Moines | B. Murphy, state printer | 1901 |

85 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 3.

Iowa state college | of | agriculture | and | the mechanic arts. | Catalog 1900-1901. | "Science with practice" | 1901. | By the college. | Ames. |

332 p. D. pap.

Bulletin 44. February 1900 | Iowa agricultural college | Experiment station. | Ames, Iowa. | Department of horticulture and forestry. | Observations and suggestions | on the | root-killing of fruit trees. | Ames, Iowa. | Intelligencer printing house. | 1899. |

179-213 p. O. pap.

Bulletin 45. February 1900. | Iowa agricultural college | Experiment station, | Ames, Iowa. | Field experiments | with | corn, oats, barley, wheat, brome grass, rape, sorghum, | soy beans, cow peas, and sugar beets. | Ames, Iowa. | Intelligencer printing house. | 1900. |

215-229 p. pl. O. pap.



Bulletin 46. March, 1900. | Iowa agricultural college | Experiment station | Ames, Iowa | Department of horticulture and forestry | Facts and opinions about | plums and plum growing | in Iowa | Republican printing co. | Cedar Rapids, Ia. | printers & binders. | 232-303 p. pl. O. pap.

Bulletin 47 March 1900 | Iowa agricultural college | Experiment station | [Cut of sweet potato patch—Horticultural experiment grounds] | Department of horticulture and forestry | Ames, Iowa | Notes on vegetables, | cucumbers, lima beans, tomatoes, | egg plants, sweet potatoes, peppers | Press of Carter & Hussey | Des Moines, Iowa. | 307-337 p. illus. O. pap.

Bulletin 48. June 1900 | Iowa agricultural college | Experiment station, | Ames, Iowa. | Department of animal husbandry. | [Contents, 8 lines] | Ames, Iowa. | Intelligencer printing house. | 1900. | 339-460 p. illus. O. pap.

Bulletin 49 June, 1900 | Iowa agricultural college | Experiment station | Ames, Iowa | Department of entomology | Miscellaneous insects | Republican printing co. | Cedar Rapids, Ia. | printers & binders. | 9 p. illus. O. pap.

Bulletin 50 June, 1900 | Iowa agricultural college | Experiment station | Ames, Iowa | Department of entomology | Insecticide methods | Republican printing co. | Cedar Rapids, Ia. | printers & binders. | 11-23 p. O. pap.

Bulletin 51 | August, 1900 | Iowa agricultural college | Experiment station | Ames, Iowa | Department of agriculture | Winter wheat | Ames, Iowa | The Times press | 21-30 p. O. pap.

Bulletin 52 September, 1900 | Iowa agricultural college | Experiment station | Ames, Iowa | Dairy and chemistry departments | 1. Cream testing. | 2. The influence of certain conditions in churning





on the amount of water in butter. | 3. A study of butter increasers. |  
1900 | The Times press | Ames, Iowa |  
29-59 p. O. pap.

Bulletin 53. November 1900 | Iowa agricultural college | Experiment station, | Ames, Iowa. | The asparagus rust in Iowa. | Ames, Iowa. | Intelligencer printing house | 1900. |  
58-67 p. O. pap.

Bulletin 54 January, 1901. | Iowa agricultural college | Experiment station | Ames, Iowa | Grasses | by L. H. Pammel, J. B. Weems and F. Lamson-Scribner | F. R. Conaway | Des Moines, Iowa | 1901. |  
71-344 p. O. pap.

Bulletin 55 February, 1901 | Iowa agricultural college | Experiment station | Ames, Iowa | Field experiments | Corn, test of varieties, methods of cultivation, selection, shrinkage; oats, barley, spring wheat, speltz, sorghum, rape, kohlrabi, soy beans and sugar beets | Ames, Iowa | The Ames Times press | 1901 |  
362-84 p. illus. O. pap.

Bulletin 56 March 1901 | Iowa agricultural college | Experiment station | Ames, Iowa | Pastures and meadows of Iowa | by | L. H. Pammel; J. B. Weems and F. Lamson-Scribner | F. R. Conaway | Des Moines, Iowa | 1901 |  
385-621 p. illus. O. pap.

Bulletin 57 April, 1901 | Iowa agricultural college | Experiment station | Ames, Iowa | Experiments in curing | cheese | Ames, Iowa | Press of the Times | 1901 |  
14 p. illus. O. pap.

Bulletin 58. April 1901. | Iowa agricultural college | Experiment station, | Ames, Iowa. | Parturient paralysis and the | Schmidt treatment. | List of bulletins published by the | Iowa experiment station. | Ames, Iowa. | Intelligencer printing house | 1901. |  
17-36 p. O. pap.

Bulletin 59 August, 1901 | Iowa agricultural college | Experiment station | Ames, Iowa | A bacteriological study of the college | cream-





ery milk supply | A case of putrid butter | Purification of milk by the centrifugal | separator | Ames, Iowa | Press of the Ames Times | 1901 |

37-59 p. illus. O. pap.

Bulletin 60. September, 1901. | Iowa agricultural college | Experiment station, | Ames, Iowa. | The aphididæ of North America. | Ames, Iowa. | Intelligencer printing house. | 1901. |

63-138 p. O. pap.

Bulletin 62 December, 1901 | Iowa agricultural college | Experiment station | Ames, Iowa | A study on the germination and | growth of leguminosæ, especially with reference to small | and large seed | Reprinted from Proceedings of the twenty-second annual meeting of the | society for the promotion of agricultural science, 1901. | Ames, Iowa | 1901 |

155-177 p. illus. O. pap.

#### STATE HISTORICAL SOCIETY OF IOWA

Twenty-third biennial report | of the | Board of curators | of the | State historical society | to the | governor of the state | 1901 | Printed by order of the General assembly | Des Moines: | B. Murphy, state printer | 1901 |

12 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 3.

Iowa | historical record | published by the | State historical society | at | Iowa City | Volume 16, 17 and 18. | 1900-1901-1902 | Iowa City, Iowa | 1901 |

602 p. por. pl. O.

Issued quarterly, four numbers constituting a volume. Vols. 16 and 17 only belong to the period covered by this bibliography, 1900-1901.

Documentary material | relating to | the history of Iowa | edited by | Benjamin F. Shambaugh, A. M., Ph. D. | professor in the State university of Iowa. | Volume 2. | Numbers 13, 14, 15, 16. | Published by | the State | historical society of Iowa | Iowa City, Iowa | 1900 |

147-288 p. O. pap.



Numbers 9, 10, 11, 12 of this volume were published by the State university of Iowa. With number 13 the publication of the series was resumed by the State historical society. Volume 2 is also issued as a complete volume, of 288 pages, containing numbers 9-16.

Documentary material | relating to | the history of Iowa | edited by | Benjamin F. Shambaugh, A. M., Ph. D. | professor in the State university of Iowa | Volume 3 | Local government | Published by | the State historical society of Iowa | Iowa City, Iowa | [1901] |

325 p. O. pap.

This volume is a continuation, as to contents, of volume 2 and deals with local government. It covers the period from 1836 to 1842.

Fragments of the debates | of the | Iowa | constitutional conventions | of 1844 and 1846 | along with | press comments and other materials | on the | constitutions of 1844 and 1846 | Compiled and edited | by | Benjamin F. Shambaugh, A. M., Ph. D. | professor of government and administration | in the university of Iowa | Published by the | State historical society of Iowa | Iowa City, Iowa | 1900 |

415 p. O. pap.

This volume is one of the most valuable source books in Iowa history, since it makes available and accessible the documentary materials relative to the making of the constitutions of 1844 and 1846. There were preserved no complete official reports of the debates of the conventions of 1844 and 1846.

#### STATE LIBRARY

Biennial report | of the | state librarian | to the | governor of the state of Iowa | July 1, 1901 | Johnson Brigham | state librarian | Printed by order of the General assembly | Des Moines: | Bernard Murphy, state printer | 1902 |

198 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 3.

#### STATE NORMAL SCHOOL

Thirteenth biennial report | of the | state normal school | at | Cedar Falls, Iowa. | School years 1899-1900 and 1900-1901. | Printed by order of the General assembly. | Des Moines: | Bernard Murphy, state printer. | 1901. |

48 p. illus. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 4.





Bulletin | of the | State normal school | Cedar Falls, Iowa. | 1900 |  
Vol. 1. June. No. 1. | Issued quarterly. | Published by the Normal  
school. | Entered at the post office at Cedar Falls as second class  
matter.

142 p. pl. O. pap.

Bulletin | of the | State normal school | 1900. | Vol. 1. October.  
No. 2. | Issued quarterly. | Published by the Normal school. | Entered  
at the post office at Cedar Falls as second class matter. |

53 p. plans, O. pap.

Bulletin | of the | State normal school | 1901. | Vol. 1. January.  
No. 3. | Issued quarterly. | Published by the Normal school. | Entered  
at the post office at Cedar Falls as second class matter. |

47 p. O. pap.

Containing announcement of the 5th annual session of the summer term, June  
15-July 26, 1901.

Bulletin | of the | State normal school. | Vol. 1. April, 1901. No.  
4. | Issued quarterly. | Published by the Normal school. | Entered  
at the post office at Cedar Falls as second class matter. |

192 p. pl. O. pap.

The inner cover reads:

Quarterly centennial register | of the | State normal school, | in-  
cluding a | brief history of the founding, organization, growth | and  
development of the institution. | State normal bulletin. | Vol. 1.  
April No. 4. | 1901. |

Bulletin | of the | State normal school | Cedar Falls, Iowa. | 1901. |  
Vol. 2. June. No. 1. | Issued quarterly. | Published by the Normal  
school. | Entered at the post office at Cedar Falls as second class  
matter. |

159 p. pl. O. pap.

Catalogue and circular for school year 1900-1901.

Bulletin | of the | State normal school | Cedar Falls, Iowa. | 1901.  
Vol. 2. October. No. 2. | Issued quarterly. | Published by the Nor-  
mal school. | Entered at the post office at Cedar Falls as second class  
matter. |

217 p. pl. O. pap.





The inner cover reads:

State normal manual | for | public school teachers | by | Wilbur H. Bender, Ph.B. | supervisor | advanced training department. | Iowa state normal school | Cedar Falls, Iowa | State normal school bulletin, | Vol. 2. October. No. 2. | 1901. |

#### STATE UNIVERSITY OF IOWA

The State university of Iowa | Iowa City | Twenty-second biennial report | to the | governor | and the | twenty-ninth General assembly | October 15, 1901. | Printed by order of the General assembly. | Des Moines: | B. Murphy, state printer. | 1901. |

89 p. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 3.

Bulletin of the State university of Iowa, no. 7 | Announcement | of the | summer session | for 1900 | State university of Iowa | Published by the university | Iowa City, Iowa | [Notices, 3 lines] |

26 p. D. pap.

The State university of Iowa | A bibliography | of the | publications of the university | and its members | The university press | Iowa City, Iowa | [1900] |

64 p. O. pap.

Bulletin, new series, no. 8. March, 1900.

Annual announcement | of the | law department | of the | State university of Iowa | Iowa City, Iowa | 1900-1901 | Published by the university | 1900. |

29 p. O. D. pap.

Bulletin, new series, no. 9. April, 1900.

Annual announcement | of the | medical department | of the | State university of Iowa | Iowa City, Iowa | 1900-1901 | Published by the university | 1900 |

35 p. D. pap.

Bulletin, new series, no. 10, April, 1900.

Annual announcement | of the | homoeopathic | medical department | of the | State university of Iowa | Iowa City, Iowa | 1900-1901 | Published by the university | 1900 |

24 p. D. pap.

Bulletin, new series, no. 11. April, 1900.



Annual announcement | of the | dental department | of the | State university of Iowa | Iowa City, Iowa | 1900-1901 | Published by the university | 1900 |

32 p. pl. D. pap.

Bulletin, new series, no. 12. April, 1900.

Annual announcement | of the | pharmacy department | of the | State university of Iowa | Iowa City, Iowa | 1900-1901 | Published by the university | 1900 |

18 p. pl. D. pap.

Bulletin, new series, no. 13. April, 1900.

Calendar | of the | State university of Iowa | Iowa City, Iowa | 1899-1900 | With announcements for 1900-1901 | Published by the university | 1900 |

266 p. D. pap.

Bulletin, new series, no. 14. May, 1900.

Announcement | of the | graduate college | of the | State university of Iowa | for 1900-1901 | Published by the university | August 1900 |

82 p. D. pap.

Bulletin, new series, no. 17. August, 1900.

The State university of Iowa | Announcement | of | the Iowa school | of | political and social science | for | 1900-1901 | Graduate and undergraduate courses | History, sociology, | economics, statistics, | politics, commerce, jurisprudence, | Iowa City, Iowa | September, 1900 |

29 p. O. pap.

Bulletin, new series, no. 18. September, 1900.

Announcement | of | the summer session | of | the State university of Iowa | June 17-July 27 | 1901 | Iowa City, Iowa | December, 1900 |

47 p. O. pap.

Bulletin, new series, no. 20. December, 1900.

Vol. 5. No. 2. | Bulletin | from the | laboratories of natural history | of the | State university of Iowa. | Published by authority of the regents. | Iowa City, Iowa: | May, 1901. |

216 p. pl. O. pap.

Contents: The ranunculaceæ of Iowa, by T. J. and M. F. L. Fitzpatrick. *Pyramidula shimekii* (Pilsbry) Shimek, by B. Shimek. Iowa pteridophyta in





the herbarium of the State university of Iowa, by B. Shimek. Descriptions of American uredineæ, III, by J. C. Arthur and E. W. D. Holway. Loess of Iowa City and vicinity, by B. Shimek. Iowa pteridophyta (continued), by B. Shimek. Addenda to the Flora of Lyon county, Iowa, by B. Shimek.

Bulletin, no. 21.

The | State university of Iowa | Announcement | of the | graduate college | 1901-1902 | [Seal] | Published by the university | Iowa City, Iowa | 1901 |

105 p. D. pap.

Bulletin, new series, no. 25. April, 1900.

The | State university of Iowa | Announcement | of the | college of liberal arts | 1901-1902 | Published by the university | Iowa City, Iowa, | 1901 |

195 p. D. pap.

Bulletin, new series, no. 27. April, 1901.

The | State university of Iowa | Announcement | of the | college of dentistry | 1901-1902 | [Seal] Published by the university | Iowa City, Iowa | 1901 |

44 p. O. pl. pap.

Bulletin, new series, no. 28. April, 1901.

The | State university of Iowa | Announcement | of the | college of pharmacy | 1901-1902 | Published by the university | Iowa City, Iowa | 1901 |

28 p. pl. D. pap.

Bulletin, new series, no. 29. April, 1901.

The | State university of Iowa | Calendar | 1900-1901 | [Seal] | Published by the university | Iowa City, Iowa | 1901 |

464 p. D. pap.

Bulletin, new series, no. 30. June, 1901.

The | law bulletin | of | the State university | of Iowa | for the use of students | Edited by the faculty of the law department | Number thirty-five | February 1900 | Contents [2 lines] Iowa City | Published by the university | 1900 |

32 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use of students | Edited by the faculty of the law department | Number





thirty-six | April 1900 | Contents [7 lines] | Iowa City | Published  
by the university | 1900 |

24 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use  
of students | Edited by the faculty of the college of law | Number  
thirty-seven | October, 1900 | Contents. [2 lines] | Iowa City | Pub-  
lished by the university | 1900 |

22 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use  
of students | Edited by the faculty of the college of law | Number  
thirty-eight | December, 1900 | Contents. [4 lines] | Iowa City |  
Published by the university | 1901 |

24 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use  
of students | Edited by the faculty of the college of law | Number  
thirty-nine | February, 1901 | Contents. [5 lines] | Iowa City | Pub-  
lished by the university | 1901 |

24 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use  
of students | Edited by the faculty of the college of law | Number  
forty | April 1901 | Contents [1 line] | Iowa City | Published by the  
university | 1901 |

24 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use  
of students | Edited by the faculty of the college of law | Number  
forty-one. | October 1901 | Contents [1 line] | Iowa City | Published  
by the university | 1901 |

28 p. O. pap.

The | law bulletin | of | the State university | of Iowa | for the use  
of students | Edited by the faculty of the college of law | Number  
forty-two | December, 1901 | Contents [1 line] | Iowa City | Published  
by the university | 1901 |

42 p. O. pap.



## SUPREME COURT

Reports | of | cases at law and in equity | determined by the | Supreme court | of the | state of Iowa. | December 14, 1899–April 11, 1900. | By | Benj. J. Salinger. | Volume 21; | being volume 110 of the series. | Des Moines, Iowa: | Geo. H. Ragsdale, publisher, | 1901. | 886 p. O. sh.

Reports | of | cases at law and in equity | determined by the | Supreme court | of the | state of Iowa. | April 12, 1900–October 3, 1900. | By | Benj. J. Salinger. | Volume 22, | being volume 111 of the series. | Des Moines, Iowa: | Geo. H. Ragsdale, publisher | 1901. | 899 p. O. sh.

Reports | of | cases at law and in equity | determined by the | Supreme court | of the | state of Iowa. | October 3, 1900–January 18, 1901. | By Benj. J. Salinger. | Volume 23, | being volume 112 of the series. | Des Moines, Iowa: | Geo. H. Ragsdale, publisher | 1901. | 876 p. O. sh.

Statutes and rules | regulating | admissions to the bar | in | Iowa | in force from and after | July 4, 1901 | Published by the Supreme court | Des Moines | 1901. |

7 p. O. pap.

Supreme court docket | January term, A. D. 1900. | At | Des Moines, Iowa. | [Notices, 3 lines. Index, 20 lines. Names of judges, 9 lines.] | Terms of supreme court commence | third Tuesday in January, | second Tuesday in May, | first Tuesday in October. |

33 p. Q. pap.

Supreme court docket | May term, A. D. 1900. | At | Des Moines, Iowa. | [Notices, 3 lines. Index, 20 lines. Names of judges, 9 lines.] | Terms of supreme court commence | third Tuesday in January, | second Tuesday in May, | first Tuesday in October. |

33 p. Q. pap.

Supreme court docket | October term, A. D. 1900. | At | Des Moines, Iowa. | [Notices, 3 lines. Index, 20 lines. Names of judges, 9 lines.] | Terms of supreme court commence | third Tuesday in January, | second Tuesday in May, | first Tuesday in October. |

33 p. Q. pap.





Supreme court docket | January term, A. D. 1901. | At | Des Moines, Iowa. | [Notices, 3 lines. Index, 20 lines. Names of judges, 9 lines.] | Terms of supreme court commence | third Tuesday in January, | second Tuesday in May, | first Tuesday in October. |

33 p. Q. pap.

Supreme court docket | May term, A. D. 1901. | At | Des Moines, Iowa. | [Notices, 3 lines. Index, 20 lines. Names of judges, 9 lines.] | Terms of supreme court commence | third Tuesday in January, | second Tuesday in May, | first Tuesday in October. |

33 p. Q. pap.

Supreme court docket | October term, A. D. 1901. | At | Des Moines, Iowa. | [Notices, 3 lines. Index, 20 lines. Names of judges, 9 lines.] | Terms of supreme court commence | third Tuesday in January, | second Tuesday in May, | first Tuesday in October. |

33 p. Q. pap.

#### TREASURER OF STATE

Biennial report | of the | treasurer of state of Iowa | for the | biennial period ending June 30, 1901 | G. S. Gilbertson | treasurer of the state of Iowa | Des Moines | B. Murphy, state printer | 1901 |

293 p. O. cl.

Contained also in the set of Iowa documents, 1902, vol. 1.

Circular no. 12, Feb. 1901—1,000. Division inheritance taxes. | Attorney's fees are not to be deducted in computing | the collateral inheritance tax. | The following is an opinion of the attorney-general with reference to the deduction of attorney's fees as | one of the items included in the term "debts," as defined in section 1, chapter 51, acts of the twenty-eighth | General assembly. | G. S. Gilbertson | treasurer of state February 15, 1901. | [33 lines] |

1 p. Q. pap.

Circular no. 14—July, 1901. 1,000.—Division inheritance taxes. | The collateral inheritance tax is imposed only upon the | estate owned by the decedent at time of death and not upon | interest or income subsequently arising. | State of Iowa, | Treasury department, | Des Moines, July 24, 1901. | The question as to whether the collateral in-





heritance tax should be computed on the | value of an estate as it existed at the time of death of the decedent, or upon its value at | the time of distribution to the heirs or legatees, having often arisen, and there being a | considerable division of opinion on this point among those concerned in the settlement | of this tax, the Treasury department called upon Hon. Chas. W. Mullen, attorney gen | eral, for an opinion covering the question. | His opinion follows herein. We request county attorneys and clerks of the district | court to give this publicity among the attorneys of the several counties of the state. | G. S. Gilbertson, | treasurer of state. |

3 p. Q. pap.

#### VETERINARY SURGEON

Third biennial report | of the | veterinary surgeon | of the | state of Iowa | to the | governor of Iowa | for the | period ending June 30<sup>th</sup> 1901 | Des Moines: B. Murphy, state printer 1901 |

46 p. por. O. pap.

Contained also in the set of Iowa documents, 1902, vol. 5.

#### VICKSBURG COMMISSION

Commissioner's report | Commission to locate the position of | Iowa troops | in the | siege of Vicksburg | J. K. P. Thompson, chairman | 1901 | Des Moines: | B. Murphy, state printer | 1901 |

48 p. map, O. pap.



## SOME PUBLICATIONS

*John Marshall, Life, Character, and Judicial Services.* As portrayed in the Centenary and Memorial Addresses and Proceedings throughout the United States on Marshall Day, 1901, and in the Classic Orations of Binney, Story, Phelps, Waite, and Rawle. Compiled and Edited with an Introduction. By JOHN F. DILLON. Chicago: Callaghan & Company. 1903. Vol. I, pp. viii, 528. Vol. II, pp. 565. Vol. III, pp. 523.

No more characteristic or eulogistic tribute was ever paid in this or any other country to the memory of an illustrious public man than that involved in the commemoration of the centennial of John Marshall's installation as Chief Justice of the Supreme Court of the United States, February 4th, 1801. In response to a request made by the American Bar Association, the day was observed at the national capital, and in thirty-eight of the States of the Union, and at assemblages of various kinds, spontaneously called in response to this suggestion, addresses were delivered in which calmly, argumentatively and conclusively the life, character, and genius of the great Chief Justice were described and extolled. But this general tribute was significant of something of larger value than the personal greatness of one man. It was significant of the completion of a century of constitutional development in the United States, the ultimate vindication of the principles on which the federal government was founded, and the final demonstration of the success of democratic institutions, resting for their security on the respect for law and good government prevailing with the body of the people of this nation. It was not a tribute to military glory nor to regal power, but a spontaneous intellectual recognition of the greatness of character, faithful services, and eminent attainments of one whose claims to recognition as a great man among the leaders in the world's history rested upon the administration of the duties and the discharge of the





responsibilities of a judicial office in which there was no opportunity for distinction, save as it was afforded by the wisdom, learning, and judgment involved in pronouncing the law of the land, that system of law recognized in and guaranteed by our constitution, and resting for its effective enforcement on the acquiescence of the people governed. Chief Justice Marshall's fame was already established, and needed not this volume of concurrent tribute to make it known. But the spontaneous and unanimous response to an appeal which did not proceed from any formal or commanding source, but from those who were recognized as proper custodians of the dignity and authority of the law as a rule of conduct, rather than the command of a sovereign, was most significant as to the preponderating influence in the government under which it is our privilege to live.

These volumes are, therefore, of great value, not only for what they contain, but for what they typify, and they constitute a monument, or, as it were, a milestone of a significant and important epoch, not only in our national history, but, as we may justly believe, in the history of civilization. They, however, are not merely in themselves a monument or a mark, but they contain a most interesting and fundamental exposition of our whole theory of constitutional government; for Marshall's announcement of the principles in accordance with which the federal constitution must be interpreted, and the results of such interpretation, have been accepted by all as a part of our fundamental law, and it is not derogatory to the credit to which the great Chief Justice is entitled, but rather in enhancement of it, that he is recognized, not as the originator, but merely as a careful and conscientious expounder of the great system of government which, as the result of historical development and human wisdom combined, was embodied in our constitutional system. No one could speak with better right and more conclusively than those whose addresses are included in these volumes. Among them it will not be invidious to mention Justice Gray, Judge Dillon, Wayne MacVeagh, Professor Thayer, Richard Olney and Bourke Cockran. By preserving the most significant portions only of the addresses which





are included in the compilation, and at the same time giving some matter from each of the many which were delivered, the editor has constructed a work which presents at once many views of the questions which are suggested by the life and services of Chief Justice Marshall, evidences the wide extended recognition of his services, and embodies practically all that the most careful biographer would be able to collect as to his life. The addition of the monumental orations of Horace Binney and Justice Story, delivered soon after Marshall's death, the address on Marshall delivered in 1879 by Edward J. Phelps before the American Bar Association, and the addresses of Chief Justice Waite and William Henry Rawle in connection with the unveiling of the statue of Marshall at Washington in 1884, make this work a practically complete embodiment of that which those best qualified to speak on the subject have had to say with reference to John Marshall.

The preparation of these volumes is itself a monumental work, and another evidence of the devotion of Judge Dillon to the system of jurisprudence of which he has been so eminent an expounder as lawyer, judge, lecturer, and author. That he was willing to undertake so great a task, and give such valuable and painstaking service to the presentation of that which others have said by way of tribute to the first great Chief Justice, entitles him to our deepest gratitude. His work has been worthily supplemented by that of the publisher, and nothing is left to be desired in the embodiment in permanent and accessible form of the national tribute paid to the memory of Marshall on the centennial of his elevation to the office of Chief Justice.

EMLIN MCCLAIN

SUPREME COURT CHAMBERS  
DES MOINES

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*Texas.* By GEORGE P. GARRISON. Boston: Houghton, Mifflin & Co. 1903. Pp. v, 320.

Of the commonwealths once included within the Spanish province of Louisiana, Texas alone has had an independent existence; its history has, accordingly, a certain unity not to be found in that of States





which have been carved artificially out of the national domain. For this, if for no other reason, the volume on Texas is a welcome addition to the American commonwealth series. The author has preferred to call his contribution to the series a study based on the history of Texas rather than a history proper. It has been his aim to give "a picture of what Texas is and of the process by which it has become such." This prefatory promise lacks something of complete realization. The experience of the people of Texas, which the author professes to recite, proves to be almost exclusively political experience; and the reader will thumb the pages of the volume in vain for the social and institutional aspects of the history of the southwest. Except for a brief chapter on Spanish modes of occupation, there is hardly a suggestion of the economic and social life of the early colonists. The advent of the "Anglo-American" is heralded and his political mission duly emphasized; but where he came from, and why he came, and what social and political institutions he brought with him, and how these institutions were adapted to a quasi-Spanish environment, the reader is left to surmise. In his first chapter the author assures us that Spanish influences left "ineffaceable marks" on the institutions of Texas, but just what these marks are, does not appear. We are told that no feature of Texan history is more instructive than the development of the public land policy, but no further information is vouchsafed, save in a brief reference to the public land reservations for educational purposes.

Had the volume professed to be no more than a sketch of the political history of this vast commonwealth of the southwest, the reader would pronounce it a meritorious piece of work, since it bears evidence of laborious study of the original sources and patient accumulation of data at first hand. If the treatment of Texan history under Spanish rule seems disproportionately long, the fault, if it is such, may be readily condoned, for the writer has imparted thereby a decided old-world flavor to Texan life and created an admirable setting for the study of later political changes. Three short chapters are made to suffice for the history of Texas since annexation to the





United States. Reconstruction days are passed over with a laconic brevity that suggests volumes of pent-up feeling. "Texas of To-day" is the title of a concluding chapter of somewhat encyclopedic character. Population, resources, education, and industries receive here a brief consideration; but recent experiences connected with the "free grass" movement and the farmers' alliance are passed over in silence.

While the author has admirably preserved the attitude of impartial critic throughout his study, there are, nevertheless, some statements, here and there, which are open to question. We fail to see on what grounds the inference rests, that Texas "would likely soon have become a commanding figure in its role of nationality." (p. 228). Frequent bickerings with France and England and continued hostilities with Mexico would seem to be sufficient evidence to the contrary. Statistics will hardly bear out the contention that Texas is "the one southern State that has really grown by immigration." (p. 305). The remark that "there are few States whose people are so cosmopolitan" (p. 306), will hardly pass unchallenged. The author's enthusiastic admiration of the defense of the Alamo as "the superlatively dramatic episode in the history of America" (p. 68) and as the most heroic event in American history," (p. 207) is not likely to kindle corresponding emotions in American readers. It is instructive to find Bancroft, in his History of Mexico, averring that "the blood, both of Mexicans and Texans, shed at Alamo was a useless sacrifice."

ALLEN JOHNSON

IOWA COLLEGE  
GRINNELL

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*The Government of Maine.* By WILLIAM MAC DONALD, LL. D. New York: The Macmillan Co. 1902. Pp. 263.

In 1901 the Macmillan Company began the publication of a series on our State governments, entitled the *Handbooks of American Government*, to be edited by Professor Lawrence B. Evans of Tufts College. The volume before us is the third of the series to be published, having been preceded in 1901 by Professor McVey's *The Government of Minnesota*, and in 1902 by Professor Morey's





*The Government of New York.* Two forth-coming volumes are announced as "in preparation:"—one on *Ohio*, by W. H. Siebert, A. M., and one on *Michigan*, by Webster Cook, Ph. D.

The present volume "begun at Bowdoin College" was "finished at Brown University" by one well equipped for the task. It is a small volume of 263 pages, of which 188 make up the body of the text, 75 being given to four appendices.

The field covered is the whole range of State and local government, and, if the book is small, we are reminded by the author that he has "tried to keep in mind the needs of students in the high schools and academies, for whose use it is particularly designed, and to avoid overloading the text with relatively unimportant details." This quotation explains the aim of the whole series as well as of this one volume.

The first two chapters are given to a historical sketch of Maine as Province, District, and State, covering a period from 1603 to 1903. The history of Maine as a District of Massachusetts is certainly interesting, and here we wish the author might have been fuller. What he tells us is good, but he does not tell all. The admission of Maine in 1820 is spoken of, but that does not tell the whole story. Maine had been in the Union since 1789. We are not told that the people of Maine ratified the constitution in 1788 and voted for president from 1789 to 1820. The event of 1819-20 was rather a division of Massachusetts into two States. We are not told the exact reason why the people of the District wished to be separated from Massachusetts proper.

An exposition of the central government of the State is prefaced by a discussion of the terms of admission to the Union, constitution-making, amendment of constitutions, declarations of rights, etc. Then follow chapters upon local government, nominations and elections, and the administration of justice. An interesting chapter on education explains the State system from district school to State University. Under the caption, "The Protection and Comfort of the State," are discussed the militia, State charities, correctional institutions, the





prohibition law, etc. The final chapter treats of revenue and expenditure.

A valuable part of the book consists of four appendices. One is chronological, one statistical, while a third gives a very helpful analysis of the State and local government in outline. A fourth contains fifty pages of valuable documentary material including the "Grant of Maine to Gorges and Mason," the "Second Charter of Mass., 1691," the "Articles of Separation," "Act of Cession," "Act admitting Maine into the Union," "the Constitution of Maine," etc.

Each chapter is prefaced by a list of references, all of which taken together make up a working bibliography on the government of Maine.

The plan of the whole series, which is to give in brief space clear and concise accounts of the every day workings of our State and local governments, as well as the execution of the volume in hand, is to be highly commended.

F. H. GARVER

MORNINGSIDE COLLEGE  
SIOUX CITY

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*The Government of New York. Its History and Administration.*

By WILLIAM C. MOREY. New York: The Macmillan Co. 1902.

Pp. xiii, 294.

This little volume appears in the series, *Handbooks of American Government*, edited by Dr. Lawrence B. Evans, Professor of History in Tufts College. The idea of which it is the embodiment is one which is rightly winning its place in the minds of educators. It is in reality the substitution of the inductive for the deductive methods of reasoning in the study of politics and history.

The attempt means that more attention is to be paid to the practical workings of government, hence the *history* of government is to become more prominent. This will enable the student to familiarize himself with the facts which heretofore have been used mainly by the teacher to work out the principles which the student has accepted, because they were given him. The method here laid down can not





help but make clearer thinkers of our students of government because of the added data by which to correct false deductions.

This book, like all of Professor Morey's efforts, is a model of scientific arrangement and analysis. In this respect it may well serve to guide workers in similar fields elsewhere. It is divided into three parts, namely: *The Growth*, *The Structure*, and *The Work of the Government*. The first part traces the historical development of institutions from the landing of the Dutch, to the final revision of the Constitution in 1894. The second part treats of the Relation of the State Constitution to the Federal Constitution, the Relation of the Citizen to the State, and the Structure of State and Local Government; while the third part treats of the Functions of the Organs of Government in the Administration of Justice, the Protection of the People, the Support of Public Education, the Supervision of Charities and Corrections, the Control of Economic Interests, and the Management of Public Finances. There is added an appendix containing excerpts from the most important and useful documents, together with other important material which the teacher finds useful and the student finds interesting.

The work has been carefully done and the student and teacher will find it a valuable guide and an extremely suggestive work for an introduction to the more general and philosophical study of the theory of our institutions.

H. G. PLUM

THE STATE UNIVERSITY OF IOWA  
IOWA CITY

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*Exploration of the Great Lakes in 1669-1670.* By DOLLIER DE CASSON and DE BREHANT DE GALINEE. JAMES H. COYNE, editor and translator. Part I of Vol. IV of the Papers and Records of the Ontario Historical Society. Toronto: 1903. Pp. xxxviii, 90.

When Champlain, in 1609, set out from Quebec with a party of Montagnais warriors to explore the country to the south of the St. Lawrence he little realized the effect which that expedition was to





have upon the development of the French empire in North America. While his primary object was exploration, he was bound, in order to accomplish his purpose, to espouse the cause of his allies and was thus led into an unprovoked attack upon an Iroquois village near Ticonderoga. An easy victory won for New France only the lasting hostility of the Iroquois confederacy. These formidable adversaries were for the next half century able to check all attempts of the French to occupy the country to the south of the St. Lawrence and even rendered traffic along the upper course of the river too hazardous to be profitable. The south being thus closed and the regions to the north being uninviting, French enterprise naturally turned westward, following the upward course of the Ottawa.

By this route the Great Lakes were first reached. The shores of the fresh water sea (*Mer Douce*) were quickly explored to the northward and westward from the Georgian Bay of Lake Huron until the vast areas of Lake Superior on the one hand and of Lake Michigan on the other seemed for a time capable of absorbing the combined energies of missionary, fur-trader and prospector. Thus it happened that the French were established at the head of Green Bay and at Chequamegon Bay at a time when Lake Erie and Lake Ontario were known only through vague reports furnished by vagrant Indians, and the forest trails of Wisconsin were familiar to the Jesuit and the *coureur de bois* while western New York was still *terra incognita*.

The success of the Iroquois in exterminating or scattering neighboring tribes had, by 1665 (*circa*) left them quite isolated in the midst of a vast hunting preserve comprising the territory of their former foes. They thus lost their former advantageous position in which they had acted as intermediaries in the fur trade carried on between the Dutch and the tribes in the interior of the continent. Peace with the French was now their only recourse, and thus travel along the upper St. Lawrence and the Lower Lakes became subject to only the ordinary hazards.

Jesuit and Sulpitian missionaries at once entered the newly opened region, and were immediately followed by emissaries of the state.





A new passageway to the northwest was demanded, more practicable than that by way of the Ottawa. Pere traced out a portage route from Gandatseteigon, on the north shore of Lake Ontario, to the Georgian Bay. Jolliet was sent to locate the copper mines in the northwest, of which there was already much talk. Upon their return to Montreal the two explorers descended the St. Clair and Detroit rivers together, followed the north shore of Lake Erie for a long distance, then struck out overland for the head of Lake Ontario. Here they were met by the party in which we are more immediately interested, that of La Salle and the Sulpitians De Casson and Galinee.

Having left left Montreal two months previously (July 6, 1669) La Salle's party had ascended the St. Lawrence, passed the Thousand Islands, coasted the south shore of Lake Ontario, entered the Niagara River, noting the roar of the distant cataract, and had finally reached the western extremity of the lake. The meeting with Jolliet at this point completed the solution of the problem of the Great Lakes. There was, to be sure, the channel of the Niagara, which had not yet been traced; but a great geographical fact had been demonstrated—the continuity of the water-way from Lake Michigan or Lake Superior to the Gulf of St. Lawrence.

After Jolliet and his companions had taken their leave, the party, which from the first had evidently been divided both as to its leadership and its purposes, actually separated. La Salle, with a few of the company, seems to have repassed the mouth of the Niagara and then struck off across western New York to the sources of the Ohio, following that waterway for a considerable distance; though of this we have no certain information. As for the Sulpitians, they made their way by forest trail and portage to Lake Erie, and after wintering near Port Dover, continued their difficult voyage along the north shore, ascended the Detroit and St. Clair rivers and at last reached Machilimackinac. Thence they returned to Montreal by the old Ottawa route, to find that they had long been given up for lost.

Such is the "setting" of the work under review. Besides the narrative of Galinee, of which the French original and the English





version are given on opposite pages, it includes the *proces-verbal* by which possession was taken of the lands of Lake Erie in the name of Louis XIV., and Galinee's map with its legends. There is also an introduction of twenty-seven closely printed pages, replete with interesting historical and bibliographical matter. A second part, to contain appendices, explanatory notes, and an alphabetical index, is promised at an early date.

It is to be hoped that the present interest in the detailed history of western discovery and exploration will not abate until every extant document which has relation to the subject has been made as readily available as the important one here treated now is. It can hardly be expected that the work will be as well and as thoroughly done in every case as in this.

LAENAS GIFFORD WELD

THE STATE UNIVERSITY OF IOWA  
IOWA CITY

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*The Loyalists in the American Revolution.* By CLAUDE HALSTEAD VAN TYNE. New York: The Macmillan Co. 1902. Pp. 360.

This is a book by a scholar and for scholars, and yet it is not without some interest for the general reader. As the author says, "The formation of the Tory or Loyalist party in the American Revolution, its persecution by the Whigs during a long and fratricidal war, and the banishment or death of over one hundred thousand of the most conservative and respectable Americans is a tragedy rarely paralleled in the history of the world."

Probably every teacher of American History has asked himself, "Why in our text books and even in our larger histories, do we find so little on the Tories?" Is it because our historians do not dare to tell the truth about the matter? This may have been true in the past but it certainly is not true to-day. If it is because the information is not in a form where the historian, especially the compiler of a school text-book, can get at it, then Dr. Van Tyne has rendered valuable services to his fellow workers.

It should be said by way of parenthesis that while an examination





of a dozen text-books shows nothing like an adequate treatment of the Loyalists, the more recent ones, especially Channing's, show an improvement. Prof. Hart's forthcoming text, if we may judge by the outline, shows a still larger proportion of space given to the subject.

*The Loyalists in the American Revolution* should be classed under scientific history. The author is fair in his selection of incidents and illustrations. In his power to resist temptations to digress, in his power to leave out all comparisons with events of the present which are analogous but almost always misleading, in his power to resist the temptation to generalize, in all these, Dr. Van Tyne shows himself marvelously strong.

It has been claimed that the book is lacking in style, certainly it is lacking in interest except that which is inherent in the thrilling events narrated. But it remains to be demonstrated whether a man can be strictly scientific and at the same time interesting to the general reader. That Dr. Van Tyne resisted at least one temptation to digress for the sake of making his book interesting is shown by his statement, "In the preparation of a work on the Loyalists there was a temptation to go over the usual ground of a history of the Revolution, and doubtless, the dramatic interest could have been attained only by so doing; but such a treatment would have greatly increased the volume of this work, and would have buried the real contribution to our knowledge of the American Revolution in a mass of well known facts concerning campaigns and historic personages." Dr. Van Tyne has made a distinct and valuable contribution to American history. He has collected, read, and organized in the utmost spirit of fairness, and with a scholarship broad enough to see and classify according to true but subtle relations, a mass of material hitherto buried, as local history is liable to be, in the most unexpected places. From now on it will be easy for his fellow workers, whether teachers or writers, to bring up a long neglected topic—the Tories or Loyalists.

ARTHUR D. CROMWELL

HUMBOLDT COLLEGE  
HUMBOLDT, IOWA





Sir Frederick Pollock, Corpus Professor of Jurisprudence in the University of Oxford, is scheduled for a brief course of lectures in the College of Law of the State University of Iowa in October, 1903.

Dr. F. E. Horack's article on "The Black Hawk War" which appeared in the April number of THE IOWA JOURNAL OF HISTORY AND POLITICS.

## NOTES AND COMMENT

At the special meeting of the Board of Curators of the State Historical Society of Iowa, which was held on Wednesday, June 24, 1903, the Hon. Peter A. Dey was re-elected President of the Board of Curators and of the Society; Dr. Frank E. Horack was elected Corresponding and Recording Secretary to succeed Mr. M. W. Davis; and Miss Margaret Budington was re-elected Librarian and Cataloguer.

A volume of four hundred pages on *The Black Hawk War* is announced by Mr. Frank E. Stevens, 1205 Chamber of Commerce Building, Chicago. This is, perhaps, the most complete and most reliable work on the great Indian chief that has ever been published.

In the new Carnegie library building at Chariton, Iowa, for which plans have been made and accepted, a room is set aside for the local historical society. This suggests that local libraries throughout the State may appropriately be made the homes of the local historical societies.

Volume II of the *Messages and Proclamations of the Governors of Iowa* has been issued by the State Historical Society of Iowa. It covers 500 pages and contains the messages of Governor James W. Grimes, Governor Ralph P. Lowe, and Governor Samuel J. Kirkwood. The third volume has also been issued. This volume contains 472 pages and includes the messages and proclamations of Governor William Milo Stone and Governor Samuel Merrill.

In addition to those named in the April number of THE IOWA JOURNAL OF HISTORY AND POLITICS, the following papers were read before the Political Science Club during the year which closed June 1, 1903: *A New England Town of Fifty Years Ago*, by Professor Amos N. Currier; and *The Freedman's Bureau*, by Dr. Paul S. Peirce.





Sir Frederick Pollock, Corpus Professor of Jurisprudence in the University of Oxford, is scheduled for a brief course of lectures in the College of Law of the State University of Iowa in October, 1903.

Dr. F. E. Horack's article on *The League of Iowa Municipalities* which appeared in the April number of THE IOWA JOURNAL OF HISTORY AND POLITICS was reprinted in the May number of *Midland Municipalities*.

The pamphlets and public documents which had been collected by Senator James W. Grimes during his life, and which since his death had been preserved in the Nealley homestead at Burlington, have recently been donated to the Burlington Public Library.

At the regular annual meeting of the State Historical Society of Iowa, which was held on Monday, June 22, 1903, the following nine local Curators were elected to serve for the term of two years: Peter A. Dey, M. W. Davis, Samuel Calvin, George W. Ball, Benj. F. Shambaugh, Isaac A. Loos, W. C. Wilcox, A. E. Swisher, and Joseph W. Rich. Greetings were sent to Dr. J. L. Pickard, Ex-President of the Society; and the faithful services rendered by the Secretary, Mr. M. W. Davis, were commended in a resolution which was entered upon the minutes of the Society.

The unveiling of two bronze statues—one of Abraham Lincoln and the other of David B. Henderson—at Clermont on Friday, June 19, 1903, was an event of more than local significance. These monuments are the gift of Mr. William Larrabee, Ex-Governor of the State, to the town of Clermont; but the people of the whole State benefit by this gift. Monuments of our national and local statesmen and heroes are among the most effective agencies in promoting patriotism. They daily teach civic virtue and ever tend to deepen that love of country wherein lies the political salvation of the people. Mr. Larrabee's act receives the applause of the whole State. The example which he has set herein should be followed by other men and in a hundred other towns throughout the State.





Three more chapters have been added to Mr. Rich's *Evolution of the American System of Protective Tariffs*. The whole series, which has been published in the *Iowa City Republican*, comprises eighteen chapters.

An account of the *Battle of Shiloh*, written by General Henry H. Wright, has been published in three installments in the *Semi-Weekly Iowegian* (Centerville, Iowa) under the dates of April 3, 6, 10, 1903. It was taken from a *History of the Sixth Iowa Regiment* which Gen. Wright now has in manuscript.

The May, 1903, *Century* contains a short article on *Five Hundred Farmers—an Economic Experiment in Iowa*. The author of this article, Mr. W. S. Harwood, seems to believe that the experience of the Rockwell farmers suggests that the common people have in themselves the power to apply a remedy to some of the evils of trusts and monopolies.

In summing up the results of the late elections in Iowa towns and cities, the editor of the *Midland Municipalities* observes that, "The most important tendency shown by the spring elections in Iowa, is the gradual elimination of party politics in municipal elections. Party lines were drawn in but few of the municipalities, and where so drawn the ticket of the dominant party was in the majority of cases defeated and the minority party was able to elect its ticket."

Mr. C. F. Wennerstrum of Des Moines, sometime Commissioner of Labor Statistics in Iowa, has made and published an interesting compilation of statistics relative to the Scandinavian-born population of Iowa as shown by the census returns for 1900. From Mr. Wennerstrum's compilation it appears that there are 72,611 persons of Scandinavian birth in Iowa, of whom 17,102 are Danes, 25,634 Norwegians, and 29,875 are Swedes. The four States having the largest number of Scandinavian-born people are Minnesota with a total of 236,673, Illinois with 144,812, Wisconsin with 103,942, and Iowa with 72,611.





Mr. R. R. Bowker, who has already compiled and published provisional lists of the publications of many of the States, has now in preparation a provisional list of the publications of the State of Iowa.

The March, 1903, *Midland Municipalities* contains an article on *The Filtration of Public Water Supplies*, by Prof. Charles Magowan. In the same number Mr. W. H. Schooley, Mayor of Indianola, writes on *Governing a Municipality*. In the April number of this same periodical Prof. Magowan continues his discussion on *The Filtration of Public Water Supplies*; Mr. C. H. Van Law, of Marshalltown, writes on *Municipal Administration of Public Utilities*; and Prof. Elmer A. Wilcox discusses *Village Improvement*.

Mr. Lawrence Marshall Byers, who has recently been elected to a professorship in the College of Law at the State University of Iowa, was born at Horgen, in the Canton of Zurich, Switzerland, on August 18, 1872. He graduated from Penn College (Oskaloosa, Iowa) in 1890 with the degree of A. B., from Haverford College (Pennsylvania) in 1891 with the degree of M. A., and from Yale University in 1893 with the degree of LL. B. In 1891 Mr. Byers studied at the University of Zurich, Switzerland. He has practiced law in Des Moines, Iowa, and has been professor of law at Drake University.

WHEREAS Jacob J. Mosnat, Member of the State Historical Society of Iowa, died on June 20, 1903, at Belle Plaine, Iowa:

*Be it Resolved* that the following be entered upon the records of the State Historical Society of Iowa:

Jacob J. Mosnat was born in Bohemia in 1857. Early in life he mastered the trade of machinist. Later he studied law, graduating from the Law Department of the State University of Iowa in 1875. He settled at Belle Plaine, Iowa, where he practiced his profession until the day of his death. In 1890 he was elected to the Iowa Senate, which position he occupied in the 23rd and 24th General Assemblies.





Under the title of *Studies and Exercises in Economics*, Professor L. W. Parish of the Iowa State Normal School at Cedar Falls has recently published in pamphlet form an outline course of study embracing in part I the subjects of exchange and money and in part II value, price, and distribution. The first part of these studies and exercises is largely descriptive and historical, the second part is theoretical; the newer aspects of the theory of value developed by the Austrian school and the use of mathematical forms in the statement of economic principles receive considerable attention. A vocabulary of economic terms covering eleven pages is supplied as an appendix.

Dr. Frank Irving Herriott has been appointed professor of Economics and Political Science at Drake University, Des Moines, Iowa. Dr. Herriott received the A. B. degree from Iowa College (Grinnell, Iowa) in 1890, the M. A. degree from the same institution in 1893, and the Ph. D. degree from Johns Hopkins University in 1893. He was instructor in Political Economy at the Woman's College, (Baltimore, Md.) in 1892-93, lecturer on Civics for the American Society for the Extension of University Teaching (Philadelphia, Pa.) in 1894, Editor of *University Extension* in 1893-94, acting-professor of Political Science at Iowa College in 1895-96, and Deputy Treasurer of the State of Iowa from 1897 to 1901. Dr. Herriott is a trustee of Iowa College, a member of the Executive Council of the Associated Charities of Des Moines (Iowa), Director of the Roadside Settlement Association (Des Moines), and member of the American Economic Association. His most valuable publications are:—*Introduction to the History of Corporation Taxes in Iowa*; *Institutional Expenditures in the State Budget of Iowa*; and *The Vital Statistics of Iowa*.

Indicative of the thoughtful consideration which is being given to the practical value of the study of History and Politics (including local history and local politics) is the call recently made<sup>1</sup> by Andrew D. White, one of America's most illustrious diplomats, for \$14,000,000 to be used for the following objects: "First—Endowments in

<sup>1</sup>At the semi-centennial of the class of 1853 of Yale University, held in June, 1903.





twenty-five American universities of professorships and fellowships, to be used in the study of public affairs. Second—Professorships and fellowships in twenty-five American universities for courses in the administration of government in town, State, and nation. Third—The establishment on a similarly large scale in American universities of professorships in international law. Fourth—The establishment of twenty-five professorships and fellowships in the history of civilization. Fifth—Endowments in twenty-five universities for chairs in American history. Sixth—Similar endowments in twenty-five American universities for the study of music and literature as inspiring accompaniments to civic virtue and public life.”

#### ASSOCIATED CHARITIES OF DES MOINES

With the accepted principles of modern philanthropy as a basis, the Associated Charities of Des Moines was organized out of the old time relief societies which flourished after the Civil War. To reduce pauperism, to encourage thrift, to protect the unfortunate, to protect the charitably inclined from fraud, to inculcate the idea that the better educated and well-to-do must act as guardians of the poor, are some of the objects of the society today.

In order that the association may serve the many fraternal, benevolent, and church societies which co-operate, as well as the overseer and city officials, a general secretary is employed; an office is maintained where a card catalogue and envelope system of registration is in vogue, in which the history of more than four thousand families is recorded; makes investigations without charge and through some co-operating charity furnishes adequate relief; holds parlor conferences for the acquirement and dissemination of knowledge regarding the social and economic welfare of the community; maintains a provident fund; serves tax payers by helping enforce the law relative to residence of defectives who are legal charges of other counties than Polk.

The society is duly incorporated, is supported by voluntary contributions, two dollars or more entitling the contributor to membership. Administration is vested in a council of fifteen, five elected at





each annual meeting in April. The general secretary is the only paid officer. Members and supporters the past year number six hundred and twenty-five.

JOSHUA NEWBOLD.

At his home in Mt. Pleasant, Iowa, Joshua G. Newbold, Ex-Governor of the State of Iowa, died June 10, 1903. Several years ago a list of eleven questions was submitted to Mr. Newbold for the purpose of securing reliable data concerning his life. The questions with Mr. Newbold's answers are as follows: *Name*—Joshua G. Newbold. *Date of Birth*—May 12th, 1830. *Native State or Country*—Fayette Co., Pennsylvania. *Nationality*—(English) my Father born in America. *Several places of residence (with dates) before coming to Iowa*—Fayette Co., Pennsylvania. *Date of removal to Iowa*—March, 1854. *Place of residence in Iowa at time of election to the office of Governor*—Hillsboro Henry County, Iowa. *By what political party elected*—Republican. Was elected Lieut. Governor on ticket with Kirkwood. He was elected to U. S. Senate. I filled out his unexpired term. *Dates of term or terms of office as Governor*—From March, 1875 until Jan., 1877. [Should read: From Feb., 1877 to Jan., 1878]. *Occupation at time of and before election*—Merchant. *Offices held before election to the office of Governor*—Member of the 13, 14 and 15 General Assemblies of Iowa. Also after serving as Gov., I was a member of the 18th General Assembly.

LETTER FROM GENERAL DODGE ON THE HAMPTON ROADS CONFERENCE

No. 1. Broadway, New York—

April 2, 1903.

Dear Sir:—I have read with much interest the article by Joseph W. Rich in the April number of the IOWA JOURNAL OF HISTORY AND POLITICS on the "Hampton Roads Conference." From conversations I have had with General John A. Rawlins, Chief of Staff to General Grant, and with General Grant himself, I am satisfied that the statement made by Senator Tillman that Lincoln said to Alexander Stephens, "take a blank sheet and write 'Save the Union,'" and "Aleck you fill out the balance and I will agree to it," is sub-





stantially what Mr. Lincoln said to General Grant at City Point after the conference, and was not said to Vice-President Stephens.

During the summer of 1867, when I was building the Union Pacific Railway, General Rawlins accompanied me across the plains to Utah, and back by way of Snake River and the South Pass, on horseback. In our long days' rides together the campaigns and incidents of the war were naturally our principal subject of conversation. My desire to obtain information concerning those portions of the field I was not on myself was a natural one, and General Rawlins generously gave me a great deal of information. This conference between Mr. Lincoln and the Confederate Commission was one of the subjects that was of great interest to me, on account of the hope we all had of some good result from it. General Rawlins spoke of the great disappointment of General Grant at the result. General Rawlins' statement of what Mr. Lincoln said corresponds very closely to what General Grant has said in his *Memoirs* concerning this conference, which seems to have always been overlooked in discussions of this matter. On page 422 of volume II of his *Memoirs* General Grant says: "It was not a great while after they met that the President visited me at City Point. He spoke of his having met the Commission, and said he told them there would be no use in entering into any negotiations unless they would recognize, first, that the nation as a whole must be forever preserved, and, second, that slavery must be abolished. If they were willing to consider these two questions, then he was ready to enter into negotiations, and was almost willing to hand them a blank sheet of paper with his signature attached for them to fill in the terms upon which they were willing to live with us in Union, and be one people."

Now, I wish to suggest this query. Have not the people who have quoted Lincoln as having said this to Alexander Stephens obtained the idea by reading what he actually did say to Grant at City Point, and then assuming that it was said to Stephens, when as a matter of fact it was really what Mr. Lincoln had said to General Grant after the conference?





I also think that the statement from Lincoln to Grant is clear evidence that he did not make that statement to the Commission, because they were not authorized and would not give the assurances Mr. Lincoln required.

Very truly yours,

GRENVILLE M. DODGE

### CONTRIBUTORS

FRANCIS NEWTON THORPE, Author and Member of the Bar.

(See IOWA JOURNAL OF HISTORY AND POLITICS for Jan., 1903.)

DUREN J. H. WARD, Lecturer on Anthropology.

(See IOWA JOURNAL OF HISTORY AND POLITICS for Jan., 1902.)

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CHIEF JUSTICE MARSHALL AS A CON-  
STRUCTIVE STATESMAN<sup>1</sup>

I

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*THE IOWA JOURNAL*  
*of History and Politics*

OCTOBER Nineteen Hundred Three  
Volume One . . . Number Four

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<sup>1</sup>The substance of this paper was delivered as an address before the Grant Club, Des Moines, on February 12, 1903. In the form in which it is here published it was read in full before the Political Science Club, Iowa City, on March 2, 1903.





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Justice, and because he so presided at a formative period in the history of the government and the court, to exercise the molding influence of a statesman as well, that he has been given a high rank among the men of his time and his country.

## CHIEF JUSTICE MARSHALL AS A CONSTRUCTIVE STATESMAN<sup>1</sup>

### I

John Marshall served with credit in the Revolutionary army, was a most effective champion of the proposed Federal Constitution in the convention of Virginia, won the high approval of President Adams and great popular applause for the dignity with which he maintained the honor of the United States in an unsuccessful mission to France, and served with eminent distinction as Secretary of State during the latter part of the Adams administration. But had he left public life when the Federalists were swept out of office by the election of Jefferson to the presidency, had his last public service (and it would undoubtedly have been his last, for he was a strong Federalist, and the anti-Federalists for many years after the retirement of John Adams dominated the policies of the government) been as Secretary of State, I venture to say that he would not have been remembered in our time as an eminent statesman. His claim to distinction is as a judge; and yet it is because, while performing his duty as judge, he had the opportunity, owing to the peculiar nature of the court over which he presided as Chief

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Justice, and because he so presided at a formative period in the history of the government and the court, to exercise the molding influence of a statesman as well, that he has been given so high a rank among the men of his time and his country. It will be well worth while, therefore, to consider for a few moments how it came about that a member of a judicial tribunal could properly, in discharging the functions of that office, show the highest skill in statesmanship; for I am compelled to confess that, after comparing the genius displayed, as well as the results accomplished by the men who molded our institutions, I find none of them to have possessed a stronger insight, or to have been more capable or successful as to the results achieved, than John Marshall.

The Federal Constitution is not a mere historical growth, though it is the result of historical development; nor, on the other hand, is it an original creation, though in form a specific instrument. Those who see in it merely an adaptation to circumstances of the principal features of the English Constitution on the one hand, are as far wrong as those who, on the other, make use of the antithesis of Gladstone when comparing it to the English Constitution, which latter he described as the greatest product of the creative forces of human history, while characterizing the Constitution of the United States as "the most wonderful work ever struck off at a given time by the brain and purpose of man." Our Constitution has the two characteristics subtly combined. There are preserved in it the concrete achievements of long centuries of struggle for freedom by the English people—local self-government, representation, popular suffrage, independence of the three coordinate departments of govern-





ment, the right to have infringement of personal liberty inquired into by means of the writ of habeas corpus, the fundamental right to due process of law. Even historically, however, it stands for more than these. It embodies the concrete results of the struggles of the American Colonies for independence. The characteristics prominent over all others in the State governments formed by the Colonies when they declared their independence, was that just government derives its authority ultimately from the people, and that public officers exercise, by reason of the trust imposed in them, powers delegated by the people, the source of all the powers of government. The framework of the State governments, as organized after independence, was strikingly the same as that of the charter governments established by the King of England in the exercise of his royal prerogative, but the source of the authority exercised under them was essentially different. Take from the charter the royal power as its basis, and substitute for it the power of ultimate sovereignty in the people, and you have a State Constitution such as that adopted in Massachusetts, or Virginia, or Connecticut.

This substitution of the will of the whole people as the ultimate source of authority was a new thing in practical government. The people of England had never realized it. The notion of ultimate responsibility of the ruler for the welfare of his subjects, the realization that the interests of his subjects were the highest interests which he could consider in the administration of his authority, the conception that in the people reposed the ultimate force which the ruler must employ and rely upon if his gov-





ernment should be stable,—these ideas were not new, but practical embodiment of them in a form of government was strikingly original. Such ideas did not inhere either in constitutional or representative governments such as had previously been known. It would be interesting to search for the sources of this American doctrine. That it did not spring full fledged from the minds of constitutional draftsmen, and that it was not adopted off-hand, without some preparation and period of development, must be conceded. Some language in the earliest State Constitutions, as well as in the Declaration of Independence, would indicate the belief that it is the result of the adoption of the general theory embodied in the social compact as to the necessity of the consent of the governed as a foundation for governmental authority, and that this theory was acquired from the philosophers, whose dissertations on the natural rights of man led to the deification of Liberty, Fraternity, and Equality, and prepared the way for the French Revolution. But as a matter of fact the social compact theory is clearly traceable to English philosophy, and the agitation of the eighteenth century with relation to individual liberty seems to have been as active in England as in France. It was but a phase of the struggle for the recognition of extreme individualism which followed quickly on the heels of the complete overthrow of the ideas which underlay the Feudal system. But the government of England had acquired its final definite form before the right of the people to participate in the affairs of the government was fully established, and while individual liberty has there achieved recognition as fully as elsewhere, the constitutional forms have not been changed





to adequately represent its ultimate triumph as against the doctrine of the inherent possession of power by the governing body. In France the breaking down of the Feudal system at a later date than in England gave full opportunity for an embodiment in actual form of the theories of natural right. But the practical protection of individual rights was no more fully secured in France than in England, and I doubt very much whether as to these latest developments of our governmental system we owe any more to French philosophizing, and the French advocacy of liberty, than we do to the agitation which was carried on in England without any such tangible results in constitutional forms.

The Constitution of the United States is a specific instrument of government, adopted by lawful authority, binding on those owing allegiance to the government of which it is the charter, and subject like any other written instrument to authoritative interpretation and enforcement by the judicial department of the federal government, to which the people, in the exercise of their sovereign power have delegated that authority. It is not an unwritten Constitution, reduced tentatively and experimentally to written language, subject to constant alteration and revision, as particular circumstances or emergencies may arise calling for modification, but an instrument binding as written, to be adapted, however, to new conditions or circumstances by the same power of interpretation which is exerted in applying a statute or a contract to conditions not anticipated when it was framed. If it lacks the flexibility of the unwritten Constitution of Great Britain on the one hand, it possesses on the other the distinguishing merit of resting on sovereign authority, an authority para-





mount to that of the different departments of the government, and capable of a binding interpretation. Add to these characters that other one which has remained unique, that there is a tribunal with not only the authority, but the courage, to determine whether those who administer the legislative and the executive authority have kept within the limits prescribed for them by the sovereign will, and it is clear that the government under that Constitution has a responsiveness to public needs, a power of resistance as against the sudden gusts of passion or the insidious burrowings of corruption, and an efficiency in the protection of personal and property rights which distinguish it as the best government which has existed or now exists in the civilized world. The supreme excellence of our Constitution, in the ultimate analysis, consists in its adaptability by interpretation to new conditions and the vesting of the power of interpretation in a tribunal proceeding in accordance with the established traditions of the law, that system of law which has in the whole history of systems of jurisprudence attained the highest development with respect to the protection of the individual rights of the subject, and given the fullest scope of liberty to individual efforts. The power of interpretation being given to a conservative tribunal, it is but reasonable that it should be liberally exercised; without such liberal exercise our Constitution would have been a straight jacket to stifle, instead of an armor to protect, the institutions existing under it. Amendment has proven to be cumbersome and inadequate as a means of adjustment. Interpretation, on the other hand, has furnished the elasticity which has been necessary. Essential principles alone being em-





bodied in the written Constitution, so long as these principles remain unchanged (and they are so fundamental that until our entire theory of government undergoes a revolution a change can hardly be imagined), the power of interpretation will give the necessary means of adjustment.

There are those who pretend to think that liberality of interpretation has destroyed the value of this organic instrument. But they have been unable to point out any material respect in which the ideals of a free government, embodied in the Constitution as originally framed, have been departed from or abandoned. There must always be differences of opinion as to the expediency of any particular construction as between those who are conservative and those who are liberal in their views on such questions. But a difference of judgment as to one particular act of interpretation cannot furnish any adequate basis for a claim that as a whole the instrument has been wrenched from its original purpose. In fact those who have in one particular instance been found insisting upon a strict construction have often in some other particular case been the most zealous in availing themselves of a broad and liberal construction, and there is now really no serious controversy as to the general principles to be applied in constitutional interpretation.

Assuming, then, that from the beginning it must have been apparent that interpretation would be necessary, it is evident that it was a matter of great concern to determine by what authority such interpretation should be made, and on what sanction it should rest. If, as was true of the Articles of Confederation, which formed the basis of the federal authority prior to the adoption of the Constitution in 1789,





this power of interpretation was left to the States, then discord and disunion must inevitably have followed. If the very instrument itself, which purported to be the charter of a more perfect union, designed to secure the blessings of liberty to those on whose authority it was made to rest and their posterity, embodied such a theory, it contained the elements of its own destruction, the limitations of its own existence. If, on the other hand, the power of interpretation was vested in those departments of government whose authority it purported to define and limit, then it could afford no specific protection as against the exercise of arbitrary and unlimited power, or at best only the protection of giving a justification for revolt against authority and the disastrous remedy of revolution. But Anglo-Saxon love for that which is lawful and orderly and certain, and for law, blind to private interests, irresponsive to the attempt to exercise tyrannical authority, made possible the vesting of this power of interpretation in a tribunal as far removed as any human institution can be from the exercise of undue influence, on the one hand or the other, and better adapted than any other conceivable agency for maintaining a just balance between the irresponsible public will and equally irresponsible exercise of unlimited power. Such a tribunal, a court furnished with the machinery and operating in accordance with well established traditions in the administration of justice, was ready at hand. The judicial department was a recognized branch of the government of England. Its protection had been invoked, and the justice which it alone was calculated to administer had been demanded by the Colonists as a part of their inalienable inheritance as Englishmen. As State





Constitutions were formed the judicial department in each was created as coördinate with the legislative and executive departments. It was reasonable, and it was inevitable, that in the formation of a federal government, one which should be a government in fact, and not a mere compact between contracting parties, a judicial department should be provided to determine controversies among individuals arising under the laws which that government was authorized to make. And it seemed reasonable and natural that to this department should be entrusted the interpretation of the fundamental law on which the authority of the federal government was to rest. It was reasonable and natural, and yet it was the unique and supreme result of the struggle for law and liberty combined.

It must be borne in mind that the federal judiciary department, at the head of which stands the Supreme Court, was not primarily created for the interpretation of the Constitution, nor for the application of limitations to the powers of the legislative and executive branches of the federal government. That department was established for the purpose of administering justice to those whose controversies might legitimately be brought before it. No other system of courts in England or the United States has so great or varied a jurisdiction. It administers all branches of the law. It adjudges punishments for crimes, gives redress for torts, gives damages for breach of contract, applies the admiralty and maritime law and expounds the law of nations. And the new and crowning feature of the jurisprudence intrusted to it is that of constitutional interpretation. I mention the wide scope of its jurisprudence for the purpose of showing





how wisely and how safely the constitution-makers acted in bringing forth their one original, though perhaps unconscious, creation in the development of the theories of government, by which was entrusted to the Supreme Court of the United States ultimate and binding authority in the matter of interpretation of the Constitution, the authority which, for the preservation of perpetual peace and union, must be vested somewhere, and could not safely be vested elsewhere.

It is not impossible that the federal tribunals, acting as a coördinate branch of the federal government, shall depart from the letter or the spirit of the Constitution. But if ultimate power of decision is to be vested anywhere, where more safely than in a tribunal presided over by those skilled in the law, and imbued with the traditions of the law, removed as far as possible from any influence of self-interest, with no offices at their disposal, no treasury to draw upon, no army at their command, incapable of coercing any obedience save that which the great body of Anglo-Saxon people yields to the impressive and sublime majesty of the law. As Chief Justice Marshall has said, "That department has no will, in any case. If the sound construction of the act [creating a bank of the United States] be, that it exempts the trade of the bank, as being essential to the character of a machine necessary to the fiscal operations of the government, from the control of the States, courts are as much bound to give it that construction, as if the exemption had been established in express terms. Judicial power, as contradistinguished from the power of the laws, has no existence. Courts are the mere instruments of the law, and can will nothing. When they are said to exercise a discretion, it is a mere





legal discretion, a discretion to be exercised in discerning the course prescribed by law; and, when that is discerned, it is the duty of the court to follow it. Judicial power is never exercised for the purpose of giving effect to the will of the judge; always for the purpose of giving effect to the will of the legislature; or, in other words, to the will of the law."<sup>1</sup> The Supreme Court of the United States has exercised its great and conservative power in the preservation of our institutions and the protection of our national prosperity, not because of the individual ability of its judges, though among them have been great lawyers and great statesmen nor because its judgments are infallible, for no human tribunal can claim this prerogative of omnipotence, but because of the nature of the law itself, and the respect which is accorded to it by the people in whom sovereign authority rests. It was as the Chief Justice of this tribunal, and as a judge administering the law, that Marshall was able to exercise the highest prerogatives of statesmanship, and to prove himself to be entitled to a place among the founders of our great federal system.

It is not to be denied that judges are human, and are capable, even though honest and sincere in their convictions, of entertaining the prejudices and passions of other human beings. It is not possible to apply judicial methods to the solution of difficulties which do not have the nature of legal controversies. The results of judicial deliberations are satisfactory because they relate to subjects within the scope of judicial investigation and determination. When judges have

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<sup>1</sup>9 Wheaton, 866.





acted in matters pertaining to other fields in the affairs of the government, they have been found to be subject to the same limitations, and affected by the same weaknesses, as those which are found in others who attempt to render like services. If the judges of the Supreme Court have been preëminently successful in dealing with constitutional questions, it is because the nature of the controversies involving the interpretation of the Constitution and the determination of the authority of the coördinate branches of the government especially adapts them to judicial solution, and because the Supreme Court, as a court, has dealt with them as other questions of law given to it for decision.

The Supreme Court has no policy to maintain, nor does it undertake to determine beforehand or prospectively questions which may be mooted as to the interpretation of the Constitution or the laws. When a cause has arisen involving their determination, has been brought before it in an orderly form of procedure, and has been presented with full argument by men trained in legal reasoning, representing with their utmost energies the different sides of the controversy, it is then, and then only, that the court, in the light of the argument, attempts to announce its decision relating to the very case presented. That the results have always been free from the influence of that partisanship which is inevitable in the consideration of matters of public concern cannot be claimed. But this can be truthfully said, that no other method of determining such questions is so likely to lead to a feasible, satisfactory, and permanent solution.





## II

It was not, however, merely because Marshall was Chief Justice of the Supreme Court of the United States, and discharged his duties with signal courage, integrity, fairness and ability, that he is entitled to be called a statesman. The nature of the court, and the character of the questions which it was called upon to determine, gave him his opportunity. But his position as presiding justice entitled him to no dominance in the deliberations of the court, and no peculiar credit for its decisions. The fact that he did, however, in a just sense dominate the court, not by virtue of his position but through the strength of his mind and the justness of his conclusions, is made apparent by the fact that of all the opinions delivered on constitutional questions during his thirty-five years of service, more than one-half were written by him; that practically all of the decisions on these questions, rendered during his term, which are now cited as fundamental and of undoubted authority, were among those in which he wrote the opinions; that the acquiescence of his associates was not by reason of any partisan agreement, for very soon after his appointment the majority of the court, by reason of appointments to fill vacancies, was constituted of those selected by Presidents placed in power by a party hostile to the views of the Federalists, a party which remained in control of the government throughout his entire period of service, the staunchest and ablest supporter, admirer and champion whom he had among his associates being Justice Story, a Democrat by party affiliation, and the appointee of President Madison. It was not, therefore, as a Federalist or a partisan that Chief Justice Marshall domi-





nated the court and determined the character and tendency of its decisions on constitutional questions. His associates, without regard to party, credited him with unimpeachable personal character, a broad, sound and unbiased judgment, and a majestic courage. The majesty of his mind can only be compared to that of Washington, his clearness of insight and strength of intellect only to that of Hamilton.

It was, however, as a judge that he had occasion to deal with questions vitally affecting the character of the government created through the Federal Constitution, which others had considered from the standpoint of statesmen. If, then, the final interpretation of the Federal Constitution devolved upon the Supreme Court; if in that interpretation it was necessary to settle important questions as to the nature of the federal government, the scope of the powers and the relations to each other of its departments, and the division of sovereignty between it and the governments of the States; if on some questions, most vital in their nature, there was radical and irreconcilable difference of opinion; if we believe in the light of subsequent history that among these conflicting opinions some were more conducive to the prosperity of the people and the perpetuity of the Union than others, and that it is of importance that what we now think to be the sounder opinions prevailed; that it was in accordance with the fundamental purpose of those who framed and successfully labored for the adoption of the Constitution, that those views of the nature of the instrument, and the government which was created under it, should be adopted which would promote the prosperity of the people and the perpetuity of the Union; that, though men with unselfish and patriotic





motives might differ in their views, yet strength of intellect, cogency of reasoning and clearness of foresight as to results, and courage of conviction as to principles, would be valuable guides in determining which of conflicting interpretations of the Constitution as applied to new conditions was more nearly in harmony with the ultimate intent and purpose of the framers of the instrument, then, I think, we must agree that the adoption of a sound interpretation involved not only the technical skill of a great judge, but the highest abilities of a great statesman, and that to Chief Justice Marshall should be accorded preëminence in this constructive statesmanship. He carried into the discussion of constitutional questions that fairness and impartiality which we traditionally demand of a judge, but seem rarely to expect of a statesman. His reasoning was legal reasoning, his conclusions were legal conclusions, and his judgments were fortunately the judgments of a court, and not of the forum. Greater judges have sat upon the bench than he. Story, Taney, and Gray had better knowledge of the branches of law included within the scope of the jurisdiction of the ordinary courts. They knew the precedents and intricacies of admiralty, equity, and commercial law better than he. But in capacity for legal thinking, and power of legal reasoning, he was inferior to none, and in the clear grasp of the principles on which the Constitution rested, and the problems which must be worked out in its interpretation, he was superior to all. And thus he was a statesman, and a greater statesman because he was a great judge.





## III

I have dealt in these generalizations because it would be impossible, within the reasonable limits of this paper, to discuss in detail the work which Marshall actually did, and to point out the specific beneficent results which have flowed from his wisdom and sound judgment. But I should feel that my characterization of him and his accomplishments was empty and impotent indeed if it rested in the mere statement of them. I cannot do better in justifying what I have said, nor do less in justice to the character and ability of Marshall, than to point out in specific instances some of the problems presented to him, the strength of reasoning and judgment with which he sought their proper solution, and the conclusive proof of the wisdom of the conclusions finally reached, as established by subsequent events in our national history. And for this purpose I have selected a few of the most noted cases in which he announced the conclusions of the Supreme Court, confining myself, as more appropriate for this paper, to those involving the exercise of the wisdom of the statesman rather than those showing merely his skill and learning as a judge.

The case of *Marbury v. Madison*, decided by the Supreme Court in 1803, that is, within less than two years after Marshall's appointment, was the first of the great cases in which the Chief Justice expounded the nature of the power conferred by the Constitution upon the federal judiciary. It is the first case, and the conclusive one, indicating on the part of the court an intelligent appreciation of the unique position in which that court was placed in our system of government, and the resolute courage essential to the full and bene-





ficial employment of that power. Up to this time the court had temporized when approaching the determination of its relations to the other departments of the government. Now those relations were to be made clear and definite.

The case was briefly this: John Adams, who, as President, had been unable to secure a reelection because of the dissatisfaction of some of the leading Federalists, and because of the breaking down, which perhaps was inevitable, of the Federalist party, was about to retire and give place to Thomas Jefferson, the choice of the then so-called Republicans. The term of office of certain justices of the peace for the District of Columbia had expired, and on the last day of his administration Adams had sent to the Senate nominations to fill these offices, which had been ratified, and the commissions, duly made out and signed by the President, had been deposited during the very last hours of the administration in the office of the Secretary of State, ready to receive the official seal of the United States, which by law was placed in the custody of the Secretary, and to be recorded and delivered. President Jefferson had treated the commissions not thus sealed and delivered at the hour when his term of office commenced as invalid, and had made other appointments to the offices. One Marbury, claiming appointment under Adams, asked the issuance of a mandamus by the Supreme Court of the United States to compel the new Secretary of State, James Madison, to seal and deliver his commission, and it was argued for him, first, that the Supreme Court had jurisdiction to award an original writ of mandamus; second, that such writ could issue to the Secretary of State so far as his duties were ministerial and pre-





scribed by law, and third, that the present case was a proper one for the exercise of such authority. So far as appears from the report of the case no argument was made on the other side.

The Chief Justice, in delivering the opinion of the court, considered, first, whether Marbury was entitled to his commission, and on this point held that after it had been signed by the President and delivered to the Secretary of State, nothing remaining essential to its validity save the ministerial act of sealing, recording, and delivering, it became valid, and Marbury was entitled to it, and his right was of such nature that a court should protect it by proper process, the writ of mandamus being the appropriate writ for that purpose. Second, that in respect to the ministerial duties, imposed on the Secretary of State by law, to affix the seal of the United States in proper cases, make record in his office of such instruments as this when duly signed and sealed, and deliver them to the proper persons, the Secretary of State was a mere ministerial officer, the performance of whose duty in a proper case could be enforced by legal process. Third, that an act of Congress which authorized the Supreme Court to issue original writs in case of mandamus was unconstitutional, because by the Constitution itself the original jurisdiction, as distinct from the appellate jurisdiction of the Supreme Court of the United States was defined and limited, and did not extend to such a case. The result was that the Supreme Court declined to interfere, and Marbury was defeated.

But the opinion of the Chief Justice was bitterly assailed at that time by the supporters of the administration of Jef-





person on account of the assertion of its authority to control the acts of an officer of the executive department of the government, and it has since been criticised repeatedly by those who consider themselves the followers of Jefferson because of the assertion by the court of the power to declare a statute of Congress to be unconstitutional and void. It will be seen that these two grounds of criticisms have no necessary connection with each other, though they have this in common that each relates to an assumed usurpation of authority by the judiciary over coördinate branches of the government. As to the correctness of the first point there is no longer any controversy. It has become established law, as indeed it was at the time the decision was made, that a ministerial officer is subject to the control of the courts as to the execution of his trust, and when it was made clear that the Secretary of State was in respect to the duties in question a purely ministerial officer, whose duties were pointed out by statute, and not a mere agent of the President, the head of the executive department, it was demonstrated to a lawyer that judicial inquiry into the performance of the duty required by statute was proper. Chief Justice Marshall takes great pains to make this distinction clear, for he says that where the head of a department "is directed by law to do a certain act affecting the absolute rights of individuals, in the performance of which he is not placed under the particular direction of the President, and the performance of which the President cannot lawfully forbid, and therefore is never presumed to have forbidden, as, for example, to record a commission or a patent for land, which has received all the legal solemnities, or to give a copy of





such record; in such cases it is not perceived on what ground the courts of the country are further excused from the duty of giving judgment that right be done to the injured individual, than if the same services were to be performed by a person not at the head of a department."<sup>1</sup> And he further says that "the province of the court is solely to decide on the rights of individuals, not to inquire how the executive or executive officers perform duties in which they have a discretion. Questions in their nature political, or which are by the Constitution and laws submitted to the executive, can never be made in this court. But if this be not such a question, if so far from being an intrusion into the secrets of the cabinet it respects a paper which, according to the law, is upon record, and to a copy of which the law gives a right on the payment of ten cents, if it be no intermeddling with a subject over which the executive can be considered as having exercised any control, what is there then in the exalted station of the officer which shall bar a citizen from asserting in a court of justice his legal rights, or shall forbid a court to listen to the claim, or to issue a mandamus, directing the performance of a duty not depending on executive discretion, but on particular acts of Congress and the general principles of law?"<sup>2</sup> And yet, this clear and conclusive reasoning on the question, which was according to well settled law, furnished the occasion of much bitterness of feeling on the part of President Jefferson and his friends, and was made the excuse by the President for expressions of distrust, which were reiterated from time to time, until he finally

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<sup>1</sup> 1 Cranch, 171.

<sup>2</sup> *Ibid*, 170.





said: "It has long been my opinion that the germs of dissolution of our federal government are in the constitution of the federal judiciary, an irresponsible body, working like gravity, day and night, gaining a little today and a little tomorrow, advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped." President Jefferson was the one detractor to impugn the honesty of the motives which actuated the Chief Justice in rendering this decision. It is not necessary to attribute to Jefferson conscious unfairness or low partizanship in explaining his attitude towards Chief Justice Marshall and the court over which he presided. It is enough to say that it is not given to many men to be in all directions equally great, and it was the conspicuous defect of Jefferson that he could not appreciate the necessity of that stability, certainty, and order in the operations of government which is afforded by incorporating into it the administration of law as a coördinate branch, and that he could not credit to a judge the impartiality which by legal training becomes to him a second nature. If so able a man as Jefferson could so far misunderstand the necessities of a federal system of government as to pen the Kentucky Resolutions, or so far misconceive the functions of a court as to insist that it should in some way be amenable to the vicissitudes of the popular whim, it is not strange that throughout our national history there have been many, less strongly endowed with intellect than he, who have sought to discredit and belittle the value of the judicial interpretation of the Constitution, and judicial restraint upon the unlimited exercise of power. In objecting to this exercise of authority by the Supreme Court with





reference to an executive officer, the President was oblivious to history, for it was by the assertion of precisely this authority on the part of Parliament and the courts as against the administration of the King that the royal prerogative in Great Britain was most effectually limited and the rights of the people protected.

But the conclusion reached on the other branch of the case, that is, as to the power of the court to hold unconstitutional a statute of Congress attempting to confer upon it a new jurisdiction, was practically without support in previous judicial decisions, and the authority thus asserted has repeatedly been questioned by non-professional men whose judgment is entitled to some consideration as to a matter affecting a question of public policy. There was judicial precedent, but not of a conclusive character, and Marshall did not attempt to bolster his views by citing a few scattering cases in early State courts in which a like authority of the judiciary had been asserted or suggested, but struck out boldly on the sea of constitutional interpretation, guided by the compass of reason, the needle of which indicated a course calculable only from the fundamental theories of sovereignty and responsibility on which the Constitution was founded. The course indeed was plainly indicated. Hamilton had in the *Federalist* stated in a few sentences the controlling considerations. This is his terse and cogent language:

Some perplexity respecting the rights of the courts to pronounce legislative acts void because contrary to the Constitution has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. \* \* \* There is no position which depends on clearer principles than that every act of a delegated





authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal, that the servant is above his master, that the representatives of the people are superior to the people themselves, that men acting by virtue of power may do not only what their powers do not authorize, but what they forbid. \* \* \* It can be of no weight to us that the courts, on the pretense of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes, or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law, and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body. The observation, if it prove anything, would prove that there ought to be no judges distinct from that body.<sup>1</sup>

Marshall did not hesitate to endorse this line of reasoning, and he made it more clear and persuasive by his own illustrations.

The question, whether an act, repugnant to the constitution, can become the law of the land, is a question deeply interesting to the United States; but, happily, not of any intricacy proportioned to its interest. It seems only necessary to recognize certain principles, supposed to have been long and well established, to decide it. That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it, nor ought it, to be frequently repeated. The principles, therefore, so established, are deemed fundamental; and as the authority from which they proceed is supreme, and can seldom act,

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<sup>1</sup>Lodge's *Federalist*, pp. 485-7.





they are designed to be permanent. This original and supreme will organizes the government, and assigns to different departments their respective powers. It may either stop there, or establish certain limits not to be transcended by those departments. The government of the United States is of the latter description. The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited power is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested, either that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act. Between these alternatives there is no middle ground. The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it. If the former part of the alternative be true, then a legislative act contrary to the constitution is not law; if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable.<sup>1</sup>

But I cannot follow further his course of reasoning and illustration. Suffice it to say that as a legal proposition it has never been seriously questioned from this announcement of it until the present day, and it is only those who misconceive the functions of a court and the nature of the federal system who have seriously questioned it.

One other suggestion is pertinent with reference to this case, for it has been made the occasion of the only serious

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<sup>1</sup> 1 Cranch, 176-7.





attack on the fairness of judgment of the great Chief Justice, and the only foundation in the minds of lawyers for imputing to him partisanship in the discharge of the duties of his judicial office. It is said that the case might have been decided by simply declaring the statute giving the court jurisdiction in such cases unconstitutional, as was done in the end, and then abstaining from the further discussion which was so obnoxious to the President and his friends as to the authority of the Secretary of State to withhold Marbury's commission. It is said that if the court has not jurisdiction, this should be declared at once and the merits of the case should not be considered. And unquestionably this is a sound rule in the performance of judicial duty. It is the rule which Chief Justice Taney unfortunately departed from, to his own great discredit and to the peril of the Union (though in the vain hope, it must be said, of perpetuating rather than imperiling it) when in the Dred Scott case, after finding that the court had no authority to entertain jurisdiction because Dred Scott, a former slave, was not a citizen, he proceeded to discuss at length and to declare invalid the provisions of the act of Congress known as the Missouri Compromise, which prohibited the further extension of slavery into portions of the territory of the United States from which by that act it was forever excluded. Those who have looked at the matter superficially have been inclined to say that Chief Justice Marshall as well as Chief Justice Taney erred in the attempt to commit the court unnecessarily in matters not directly involved in the adjudication of the case before it. But it has been pointed out, and I think with sound reason, that Chief Justice Marshall pursued the proper course of entering upon a





discussion of the constitutionality of an act of Congress only when, after determining every other point on which the case could be decided, it appeared that the determination of the constitutionality of the legislative act was absolutely essential. He properly, therefore, postponed that question until it became apparent in the course of the discussion that it could not be avoided. Chief Justice Taney on the contrary, after holding that the court had no jurisdiction of the case, proceeded unnecessarily to discuss the constitutionality of an act of Congress. The comparison, instead of showing Chief Justice Marshall to be subject to the criticism which is properly made on the action of Chief Justice Taney, shows clearly that Marshall exhibited proper deference to the legislative department, while Taney unnecessarily pursued the opposite and unjustifiable course.

The powers and functions of the court having been settled by this early decision, the court had occasion in subsequent cases to consider many questions as to the extent of the powers of the federal government and its relations to the States. Perhaps the most instructive case is that of *McCulloch v. Maryland*, decided sixteen years later, involving the constitutionality of the act incorporating a United States bank, and the power of a State to tax a bank created by federal authority. The first Congress under the Constitution, acting under the advice and at the urgent solicitation of Hamilton as Secretary of the Treasury, who regarded such an institution at the time as one of the most promising agencies for promoting the welfare of the country by giving the government credit and stability, chartered the Bank of the United States, and that bank established a branch in the





city of Baltimore. The legislature of Maryland, however, in 1818 passed an act "to impose a tax on all banks or branches thereof in the State of Maryland not chartered by the legislature," thus plainly raising the issue, not merely whether the bank created by the federal government could be subjected to the same taxing laws as those institutions created by the authority of the State, but whether the State could, by discriminative legislation, prevent the federal institution from carrying on its business in the State in competition with banks existing under State authority. Suit was brought by the State against the officer of the Baltimore branch of the United States Bank for the recovery of the taxes claimed to be due to the State under this statute, and the decision of the State court being that the tax must be paid, the officer acting for the bank appealed to the Supreme Court of the United States. Elaborate arguments for the bank were made by Webster, Wirt (as Attorney-General) and Pinkney, and for the State of Maryland by its Attorney-General and others.

It may be noticed as interesting that although the establishment of the Bank of the United States had been strongly opposed by the anti-Federalists, and the control of the government was in the hands of their successors, who had come to be known as Democrats, Monroe being President, there was no partisan feeling at this time with reference to the existence of the bank. Its powers had been extended, with the approval of Jefferson, during his administration, and its charter had been renewed under the administration of Madison. The fact is, that strongly as Jefferson and his political sympathizers had resisted every measure calculated





to make the government of the United States under the Constitution effective, they cheerfully accepted the machinery provided for them by Hamilton and his associate Federalists, and administered it with great satisfaction to themselves, and with eminent success.

The case involved, therefore, not in a partisan, but in a fundamental way the ultimate question of the authority of a State to interfere with the operations of a corporation created by the United States, and I know of nothing to indicate that the Democratic administration sympathized with the effort of the State to interfere by discriminative legislation with the discharge by the bank of its functions as a creature of the federal government. Nevertheless the original contention that the federal government had no authority under the Constitution to charter a banking corporation, coupled with the further argument that even though such action had been justifiable on the ground of necessity when the bank was first created, the necessity had disappeared and the power no longer existed, was urged upon the court, and in disposing of this contention Chief Justice Marshall had occasion to announce in plain terms, and as the result of an incontestable course of reasoning, the rule as to implied powers, and the doctrine of liberal interpretation.

It is impossible to reproduce here, even in outline, the points of his argument. His unanswerable logic has never been refuted, and in fact no systematic attempt has ever been made to refute it, and his conclusion that, although the government of the United States is one of enumerated and not of general powers, yet under the authority given by the Constitution to Congress to make "all laws which shall





be necessary and proper for carrying into execution" the powers vested in it, Congress has authority to pass all laws appropriate to the exercise of the authority conferred upon it, is announced in one cogent sentence:

Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited but consistent with the letter and spirit of the Constitution, are constitutional.<sup>1</sup>

But let it be observed that this doctrine, neither in its theory nor its application, involved the general assertion of unlimited power within the discretion of Congress as to the unexpressed purposes for which the federal government was created. Marshall puts his finger on the express provisions of the Federal Constitution from which the power to create a bank must necessarily and properly be inferred, and uses no language which would relieve us from the necessity of putting our fingers on the specific provisions of the Federal Constitution relied upon when we assert for the federal government an implied power.

In determining the other branch of the case, that is, the question of the power of the State to interfere by taxation or other discriminative legislation with the exercise of its legitimate powers on the part of the federal government, the opinion of the Chief Justice is equally fundamental in the premises assumed and conclusive as to the results reached. Here again he founds his reasoning on the language of the Constitution itself:

This constitution, and the laws of the United States which shall be made in pursuance thereof \* \* \* shall be the supreme law of the

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<sup>1</sup> 4 Wheaton, 421.





land, and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

Whatever be the power given to the federal government, in the exercise of that power it is supreme, and no State authority can limit or interfere with its assertion; and from this premise, found in the fundamental charter which the people have given to the federal government, follow conclusions as far reaching in their logical scope as they have been beneficent in their application. Indeed, the case of *McCulloch v. Maryland* has furnished the clew for the solution of a multitude of questions arising in the operation of our complex system of government, involving as it does a divided sovereignty as between the States and the federal government, each sovereign and supreme within the scope of its legitimate powers. I need not trace the line of subsequent decisions as to the right of the States to interfere with the operations of banks chartered by the federal government by taxation or otherwise, except in so far as the right of taxation is conceded to the States by the federal authority.

In the subsequent case of *Osborne v. United States Bank*, the whole matter was again reviewed by the Supreme Court in the light of arguments by Webster and Clay in support of the federal power, resisted in this instance by the State of Ohio, which, without resorting to the forms of taxation, had appropriated to itself by way of penalty or forfeiture a part of the property of the United States Bank. Chief Justice Marshall in an elaborate opinion in this case again went over the whole ground. Nor need I refer to the subsequent cases in which the principles announced in *McCul-*





*loch v. Maryland* were applied in determining that, without the consent of the United States, no State can levy taxes upon the notes, bonds or other securities issued by the federal government in the exercise of its legitimate functions. But the conclusive solution of the whole question as to the right of a State to tax the agencies or instrumentalities which the United States government sees fit to make use of in the exercise of the authority vested in it by the Constitution is found in the terse statement by the Chief Justice that the power to tax or regulate involves the power to destroy, and that the power on the part of a State to destroy is hostile to and incompatible with the power of the federal government to create and preserve, and that where any such repugnancy exists that authority which is supreme must control, not yield, to that over which it is supreme." "The sovereignty of the state," he says, "extends to everything which exists by its own authority, and is introduced by its permission, but it does not extend to those means which are employed by Congress to carry into execution powers conferred on that body by the people of the United States."<sup>1</sup>

The same line of reasoning has been followed in the many cases involving the validity of State laws as affecting interstate commerce. The first of these was that of *Gibbons v. Ogden*, in which the right of the State of New York to give an exclusive franchise to private parties for the purpose of operating vessels propelled by steam power upon the waters within the jurisdiction of that State was questioned. As illustrating the importance of the case, the interesting fact

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<sup>1</sup> 4 Wheaton, 429.





was pointed out in the arguments of counsel that the State of Connecticut absolutely excluded from the waters within its jurisdiction, including a portion of Long Island Sound, those vessels having a license from the State of New York, while the State of New Jersey, under a system of reprisal, was imposing upon vessels entering into its waters with New York license the same penalties that were imposed by the State of New York on vessels coming from New Jersey and interfering with the exclusive privilege which New York had given. In other words, the States of Connecticut and New Jersey were in an attitude of hostility towards the State of New York with reference to commerce coming from that State on account of the attempt of New York to grant an exclusive monopoly to steam navigation within its own waters. That such a conflict might ultimately lead to consequences as disastrous to commerce as a state of war was evident, and yet, unless there was something in the Federal Constitution to render invalid such State legislation, there was no reasonable hope for relief from the resulting interference with interstate commerce.

Gibbons was the owner of certain vessels operated by steam, and had obtained from the United States a license to engage in the coasting trade, a trade which Congress assumed power to regulate by virtue of the provisions of the Constitution giving it authority with reference to foreign and interstate commerce. Ogden, as the assignee of the rights of Livingston and Fulton, who had the exclusive monopoly from the State of New York, sought in the courts of New York to enjoin Gibbons from operating his vessels within the limits of the State, even though coming into its





waters from another State, and, therefore, being engaged in carrying on commerce among the States. In the Supreme Court of New York, and on appeal in the Court of Errors of the same State, the exclusive monopoly granted to Livingston and Fulton had been upheld as against the contention that it interfered with Gibbons' rights under the Constitution of the United States to carry on interstate commerce, and especially to operate his vessels in New York waters under the license given him by the federal government. Gibbons appealed to the Supreme Court of the United States, and his case was presented to that tribunal by Webster and Wirt, who took the broad ground that State interference with interstate commerce was invalid. Emmett on the other side contended that the powers of the federal and State governments as to interstate commerce were coördinate, there being nothing in the language of the Constitution to indicate an intention to make the authority of the United States in that respect exclusive.

The opinion of Chief Justice Marshall contains an exposition of the nature of the power to regulate interstate commerce, declares that such regulation extends to navigation, and every species of commercial intercourse among the States, and does not stop at the external boundaries of the State, and the court supported him unanimously in the conclusion that the exclusive privileges granted to Livingston and Fulton were invalid so far as they were invoked to prevent such commerce. As indicating the original and fundamental character of the reasoning employed it may be interesting to note that Webster and Wirt cite but two or three authorities in the course of their extended arguments, as





reported in the Supreme Court reports, and that, although many authorities are referred to on the other side, the Chief Justice cites none whatever in his extended and elaborate opinion. Where the conclusion reached must depend upon reasons which could not in the nature of things have been presented to other courts for conclusive adjudication he evidently thought that the strength of the reason, and not the multitude of authorities which might be collaterally referred to, would alone justify the conclusions reached.

Again, in *Brown v. Maryland*, the question as to the power of a State to interfere with interstate commerce was presented to the court. Brown had brought into Maryland a cargo of goods, paying the United States import duty. The State of Maryland attempted to compel him to pay a tax for the privilege of selling these goods, imposed on importers only, by way of a license, and it was contended by counsel for Brown, one of whom was Wirt, that this was an unconstitutional interference with the power of Congress under the authority given to it to regulate foreign and interstate commerce. Taney on the other hand, as counsel for the State of Maryland, contended that this was not a duty on imports, nor was it an interference with the power of Congress to regulate commerce. But the Chief Justice expressed the opinion of the court to the effect that such a license tax was in effect a duty on imports, and also that it was an interference with the power of Congress under the commerce clause, and suggested that the same objection would exist if an attempt were made to impose such a license tax on the sale by the importer of goods brought into a State from a sister State. This case is notable because it contains





the first pronouncement of the court with reference to original packages, and it is a case constantly referred to as fundamental in the subsequent discussion, which has extended down to the present time, as to the authority of a State, in the exercise of its power of police regulation, to interfere with the sale of goods which are brought into the State in pursuance of interstate commerce.

It is impossible to pursue further the ramifications of the controversies which have constantly arisen, and must still arise, in determining the respective limits of State and federal authority. One other class of cases, however, must be referred to, namely, those involving the power of the Supreme Court of the United States to review the action of the highest tribunals of a State in cases involving some right, privilege, or immunity claimed under the Constitution, laws, or treaties of the United States wherein the decision has been against the person relying on such right, privilege, or immunity. The question was first discussed and elaborated by Justice Story in *Martin v. Hunter's Lessee*, on writ of error from the Court of Appeals of Virginia; but later, in *Cohens v. Virginia*, the whole subject was elaborately re-argued by Barbour, later one of the justices of the Supreme Court and an extreme strict constructionist, on the one hand, and by Ogden and Pinkney on the other, and Chief Justice Marshall, delivering the opinion, shows the magnitude of the questions involved by saying that the contention on the part of the State of Virginia is that "the nation does not possess a department capable of restraining peaceably and by authority of law any attempts which may be made by a part against the legitimate powers of the whole, and that





the government is reduced to the alternative of submitting to such attempts or of resisting them by force." "They maintain," he says, "that the Constitution of the United States has provided no tribunal for the final construction of itself or of the laws or treaties of the nation, but that this power may be exercised in the last resort by the courts of every state in the Union; that the Constitution, laws and treaties may receive as many constructions as there are states, and that this is not a mischief, or, if a mischief, is irremediable." Quoting then the language defining the power of the federal judiciary, he continues:

The American states, as well as the American people, have believed a close and firm union to be essential to their liberty and to their happiness. They have been taught by experience that this union cannot exist without a government for the whole, and they have been taught by the same experience that this government would be a mere shadow that must disappoint all their hopes unless invested with large portions of that sovereignty which belongs to independent states.<sup>1</sup>

Without further quotation it is sufficient to say that the court entertained no doubt under the language of the Constitution of its power to review the action of the highest tribunal of a State wherein a right or privilege claimed under the Constitution or laws of the United States was denied, and declared that if the Constitution or laws may be violated by proceedings instituted by the State against its own citizens, and if that violation may be such as to essentially affect the Constitution or laws, such as to arrest the progress of the government in its constitutional course, these cases should not be excepted from those provisions which

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<sup>1</sup> 6 Wheaton, 380.





expressly extend the duties and power of the Union to all cases arising under the Constitution and laws.

As to the power of the Supreme Court to enforce its judgments as against those acting under State authority, Chief Justice Marshall had already said in a previous case:

If the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the Constitution itself becomes a solemn mockery; and the nation is deprived of the means of enforcing its laws by the instrumentality of its own tribunals. So fatal a result must be deprecated by all, and the people of Pennsylvania [the case was one arising in that state] as well as the citizens of every other state must feel a deep interest in resisting principles so destructive of the Union and in averting consequences so fatal to themselves.

As the great interpreter for all time of the rules to be followed in construing the fundamental law and the authority of the Supreme Court to give a final and conclusive interpretation binding on all as to the construction of that Constitution and of the laws passed by Congress; as the first judicial champion of the supremacy of federal authority as embodied in the declarations of the Federal Constitution, the acts of Congress passed in pursuance thereof and the decisions of the federal courts interpreting and applying them, and the supremacy of the federal government over the States in those matters as to which the federal government is by the Constitution given authority, Chief Justice Marshall stands preëminent and without comparison as a judge and a statesman.

In justice to the subject, however, I must give one further illustration of the incontestable skill with which Chief Justice Marshall dealt with new and difficult questions. In





the case of *American Insurance Company v. Canter*<sup>1</sup> decided in 1828, was involved the relation of Florida, recently acquired from Spain and having a territorial government, to the United States. On the one side it was argued by Ogden that the Constitution of the United States at once extended over the newly acquired territory so that admiralty cases, which by the Federal Constitution are within the jurisdiction of the federal courts, could not be adjudicated by courts created by the legislature of the territory under the legislative power given to it by Congress; while on the other hand it was contended by Webster that the Constitution of the United States had no application to the government of a territory like this, formed out of the newly acquired province. These arguments have a familiar sound. They seem to suggest the question whether the Constitution follows the flag. But just as a patient investigation of the difficulties arising out of the recent acquisition of new territory will show that no glittering generality will furnish a satisfactory solution, so Chief Justice Marshall, in the decision of this case, committed himself to no broad generalization, but proceeded to ascertain the exact controversy before the court and to apply to its solution the plain tests furnished by careful constitutional interpretation.

He reached the conclusion that "under the power of making war and making treaties, the government of the United States possesses the power of acquiring territory, either by conquest or by treaty." Inasmuch as the treaty with Spain by which the territory was acquired, provided that the inhabitants thereof should be admitted to the enjoyment of

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<sup>1</sup> 1 Peters, 511.





the privileges, rights, and immunities of citizens of the United States, he found it unnecessary to determine whether without such provision the inhabitants would be in that condition. He found further that under the power to "make all needful rules and regulations respecting the territory or the property of the United States," Congress had authority to establish a territorial government and to authorize that government to establish courts, and he concluded that the power of Congress in providing either directly for the establishment of courts or in authorizing the territorial legislature to provide for such courts, was not limited by the language of that article of the Constitution defining the jurisdiction of the federal judiciary; in other words, that in providing for the government of acquired territory Congress is not limited to those enumerated powers conferred upon it with reference to territory and people existing under the established governments of the States of the Union. What he decided has long been acquiesced in without controversy. His authority is invoked on each side of the question still unsettled as to the relations of the inhabitants of our newly acquired territories to the federal government. Nothing could more conduce to a satisfactory solution of present uncertainties growing out of the new situation confronting the Supreme Court than that patient, clear, impartial, and statesmanlike frame of mind which Chief Justice Marshall so successfully employed in the solution of the greater and more difficult questions with which the Supreme Court was confronted during the thirty-five years of his administration as Chief Justice.

It is not necessary for a just and proper appreciation of the services which Marshall rendered to his country to maintain that his contributions were greater than those of any





other. Many States together make the Union, no one is primarily essential to its existence; there are three departments of the government, no one of which is superior to the other two; great men contributed their strength and their wisdom to the development of our system of government, but it is not for us to say that the contribution of one was essential or valuable rather than that of another. Washington was the great leader, holding together discordant elements and influences which, without his power of command, would have made for separation and rendered independence and union impossible. Hamilton furnished the great organizing brain, which, with marvelous skill and foresight, proposed the measures of finance and administration which were essential to bring order out of chaos and infuse strength into weakness. Jefferson brought the scheme of government into responsive touch with the popular will, without which it could not have permanently existed. Marshall expounded the principles which must govern the various departments in their relation with one another and the federal government in its relation with the States in order that by peaceful means all controversy should be determined and all friction avoided. Had the true force and significance of the principles he announced been appreciated and recognized, even an attempt at disunion would have been impossible. It was not his fault that such an attempt was made, but it is to his perpetual glory that the principles which he announced have prevailed over all opposition, and that the great and enlightened government of a reunited country continues to recognize them as the landmarks by which its course is guided.

EMLIN MCCLAIN

SUPREME COURT CHAMBERS

DES MOINES





## PROBLEMS IN THE ADMINISTRATION OF IOWA

Since the close of the Reconstruction period in American history many students of government have been impressed with the belief that the most useful work which they can find to do is no longer in the field of constitutional history and constitutional law. With the advent of the Hayes administration and the withdrawal of the federal troops from the South, most of the questions there involved received, if a crude, a comparatively tenable settlement. Hence the turning and the change from grand to *petit* political thought, from the outline to the anatomy. Hence the flood of discussion which of late years has emphasized the business, rather than the philosophy, of government. We have moved from the study of constitutional to the study of administrative law.<sup>1</sup> And, whatever may have been the

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<sup>1</sup>It may be well to indicate briefly the sense in which administrative law is here distinguished from constitutional law. Constitutional law prescribes the structure and the organization of government, defines sovereignty, and regulates its exercise; administrative law is concerned with the business of government. But the study of organization is essential to the study of administration. Moreover, the minutiae of organization are administrative rather than constitutional. Administrative law has to do more properly with what Wilson names the "ministrant" functions of government.—Woodrow Wilson's *The State*, p. 614.

But it is in fact almost impossible to draw a close distinction between administrative and constitutional law. They inevitably shade one into the other. I know of no statement which so excellently





compulsion of constitutional study in the past, from the standpoint of the necessities of the present the administrative is perhaps of more importance. Our problems of today are problems of execution, of public business management and service.

The problem of government in Iowa is the same as that of its sister States—one of efficiency, responsibility, and independence in the administration, both State and local. It is a complex problem, and one that will be fully solved, no doubt, only after many painful trials. But the essential that is fundamental to its solution, that which must precede all others, is the delimitation of the spheres of local and State government and the fixing within these spheres of the services that properly belong to each.

The characteristic of the American State government of the past hundred years has been its complexity and confusion, obscuring or destroying responsibility, until oftener than not it has been a snare and a trap to the elector, and a haven to the politician. Ask the man in the street today,

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brings this out, and so well shows the relation of the two fields of law, as the following, by Luigi Miraglia. He says: "*L'amministrazione sta alla costituzione come l'attività alla forma immanente, come la funzione alla struttura degli organi. E pochè non è possibile intendere effettivamente la funzione degli organi, senza conoscerne la struttura, così non si può separare il Diritto amministrativo dal costituzionale. L'uno e l'altro sono parti integranti del Diritto Pubblico interno, sebbene nell'uno predomini il momento dinamico, e nell'altro prevalga il momento statico. L'amministrazione rappresenta l'azione molteplice e continua del potere esecutivo, ossia l'attività per eccellenza; la costituzione rappresenta invece la base solida su cui procede questa funzione.*" In *Atti della Reale Accademia di Scienze Morali e Politiche, di Napoli, 1883, v. 17, p. 7.*





what branch of the government is acting when a policeman exercises the duress of the law upon his person, and it is likely he could not answer. If he chanced to live in Kentucky or New York, he would find eventually that the officer represented the local or municipal authority; whereas, if he lived in Michigan, Nebraska, Kansas, Maryland, or Iowa, that same officer would represent the State alone.<sup>1</sup>

"What," he would say, "are not these policemen of Des Moines, Sioux City, Burlington, who are appointed and confirmed by local authorities, officers of the city?" Let him seek to recover damages of the city for the negligence of such an officer, and he will learn to his loss the true inwardness of his error.<sup>2</sup>

This is but an example. How many others might be adduced—in the public health, the public safety, education, taxation, corrections, charities, highway management, and indeed in almost every branch of government! The power is now here, now there, in State, in county, in city, in town, according to the particular Commonwealth had in mind and the particular year in that Commonwealth's history with which the inquiry is concerned. And, to make confusion worse confounded, not only must one be uncertain of the source of power, but often he finds an officer who in the last analysis is exercising a purely State function, labeled by the very law itself a municipal or county officer, and as such he votes for that officer! Or the thing may be just reversed. If then, the great desideratum in American government be

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<sup>1</sup>See Frank J. Goodnow, *Municipal Home Rule*, p. 88.

<sup>2</sup>See, for example, *Lahner v. Town of Williams*, 112 Iowa, and cases cited therein.





efficiency, responsibility, and independence in administration, what more pertinent than the assertion that before we can construct we must clarify. Will a servant be efficient or responsible when he is in doubt as to whom (excepting always to his political creator) he owes allegiance? Can he be independent when two sets of authorities, however erroneously, claim him?

We may examine, though very briefly and in a general way, to see to what degree the State of Iowa, in the course of its administrative history, has created distinct spheres of State, and, to a lesser degree, of municipal administration. Equipped with this information, we may be able to form some opinion both of the general excellence and of the deficiencies of our organization. The fields with which we shall be concerned are public education, charities and corrections, public health and safety, and public finance; for it is in these fields, more particularly, that the debatable questions have arisen, that the local organization has trenched upon the State, or the State upon the local, with its attendant confusion of responsibility.

#### PUBLIC EDUCATION

The history of the administration of education in Iowa may be divided roughly into six periods, as follows:

1. 1839-1842. Organization of the School System. Territorial Superintendent.
2. 1842-1847. Period of Decentralization and Demoralization.
3. 1847-1858. Period of Union of the Educational and Financial Administration of the Schools.





4. 1858-1863. Règime of the State Board of Education.
5. 1863-1870. Period of Quiescence or Comparative Reaction.
6. 1870-1903. Period of Growth, both in Central and Local Administration.

The first, third, fourth, and sixth of these periods are all marked by a greater or less degree of centralization,<sup>1</sup> though the sixth is more typical of the average tendencies throughout the entire educational history than any of the others. The second period may be most properly characterized as one of demoralization, the fifth as one of reaction toward legislative non-interference, both, though the latter only slightly, bringing in their train a certain decentralization.

As early as 1841 Iowa had a territorial Superintendent. He was a vigorous man, a man with almost a genius for organization, imbued with an enthusiasm for the constructive work before him remarkable in a day of pioneer difficulties. With the creation of this office, and with the not entirely *bona fide* legislation for township and school

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<sup>1</sup>The argument throughout is one for centralization, but not centralization in the odious sense in which the word is sometimes employed. It is not believed that there should be any diminution in local self-government. On the contrary, any function exercised by the State which concerns the locality personally, rather than the State, should be transferred to the locality. But at the same time, Commonwealth functions, mistakenly administered by local officers, should be returned to the State's control. Centralization of the kind defined and denounced by Toulmin Smith, to whose scathing language John Fiske has given his support, is not at all that considered in this discussion. See Fiske's *Civil Government in the United States*, p. 274.





district organization, it seemed that the Territory was about to claim the schools as its own especial charge, and make their direction and sustenance by itself of real significance. But it was only a passing shadow. Within a year the office of Superintendent was abolished—a step in retreat—and until the new State government was ushered in, there was little of educational progress. The law abolishing the office of territorial Superintendent provided that the reports from the school units, which had been made to the Superintendent, should now be made to the Legislative Assembly. Thus the legislature would assume the central administrative control, and address its fiat no longer to an administrative intermediary, but to its own august person. Perhaps we may excuse the legislators, for it is possible that the shades of Montesquieu or the Fathers were not present at this heroic violation of political science—the legislative library had been very slow in getting across the prairies and up the waterways. But the sorry part of it is this, that the legislature, which had appointed itself thus to administer, administered not at all. There is little evidence that the reports from the school districts were ever made to it. There is practically none that the legislature was much concerned at this. In a day when organization was the prime, almost a clamoring necessity, when the legislature had at its hands the man who could do this work, it turned its back upon the obligation, and in consequence public education was stranded for a season.

In 1847 a law was passed providing for a State Superintendent of Public Instruction. Some years afterwards, county school fund commissioners—the precursors of the





county superintendents—were created, and from then until 1857, there was from the financial point of view, a greater degree of centralization in the school administration than has ever been known since that time. These educational officers were made custodians of the school fund, which, derived from the public lands granted to the State by the United States government, constituted a very large part of the school support. But it was an unhappy combination; for the school fund commissioners, if we may judge from the arraignment which they have received at the hands of more than one Governor and Superintendent, were about as incompetent a class of civil servants as Iowa has ever known. Moreover, the union of financial and educational duties in the State Superintendent was not fortunate, and was decried by the incumbents of this office almost from the first. And so strong did the sentiment upon this matter become that in 1857, when the new Constitution was framed, it was ordained therein that thenceforth the financial administration of the schools should be in the hands of purely financial officers.

It was in 1857 that the celebrated commission for the revision of the school laws made its report, and this, together with the constitutional provision above noted and those creating the State Board of Education and providing that the State University should consist of a single institution, permanently located at Iowa City, mark the year as the most significant in the history of educational administration in Iowa. The legislation, to which the report stood as a sponsor, marked the adoption of the free school, of the compromise township district system, and of the county





superintendency, all elements of the very foundation and structure of the present school system.

The régime of the State Board of Education, from 1858 to 1863, must be considered a remarkable chapter in American institutional history. The Board was made a distinct legislature for school matters; every law connected with the schools, except laws involving contractual and money obligations, must originate with it; and over the acts thus passed the General Assembly had only a power to amend and alter. The history of this Board is replete with curious instances of friction and strife—the results of an instrument of government not well adjusted to the other parts of the State administration, indeed, almost a violation of what may be deemed the canons of constituent polity. These episodes, however interesting, may not give us pause here. It is to be observed, however, that in the legislation by the Board two important steps toward centralization were taken; first, the school tribunals were erected, the county superintendent being made the court of first, and the secretary of the Board the court of final, instance; second, the State Board of Educational Examiners, in its first form, was called into being.<sup>1</sup>

In 1863, when the State Board of Education was abolished and the State Superintendent again created, the legislature seems to have been disinclined to push further the State control. Disintegration in the school unit again set

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<sup>1</sup>This Board, as originally constituted, was composed of the faculty of the State University. During its career but seventeen persons applied for certificates, eight of whom were rejected. The Board was abolished after some years, and the present State Board of Educational Examiners was created in 1882.





in, the creation of the compromise township district having given it a temporary check. The powers of the county superintendent were enhanced somewhat, while the powers of the State Superintendent were increased not at all. About 1870, however, though the date is rather arbitrary, the central control again began to receive accessions of strength, and down to the present time this has continued, until to-day it may be said that the armor of centralization is almost complete, and practically all that is needed now is that it shall be riveted together. But that may not be done for many years.

Let us examine to see how it is that the State has come so near to, yet still remains a measurable distance from, central control. We need cite but a few points. The power of the State Superintendent to publish the courses for the common schools; this, with the change of a word or two, will bring the power to direct, to a large extent, the observance of these courses. His power to pass upon courses in higher schools awaits only the provisions for assistants in his office to render it effective. His power to appoint substitutes when county superintendents fail to make reports is the next step to the power to appoint substitutes when they fail in any of their duties. It is very near to the power of removal. The ever increasing authority of the State Board of Educational Examiners to grant various certificates on examination, and its power to revoke such certificates, are not far from a complete central control of teacher's examinations. Its authority to inspect private normal schools and accredit them, and to enter into reciprocal relations with other States in granting certificates, clears the way for the





assumption in time of almost complete direction of the educational qualifications of teachers. The manual prepared by the State Teachers' Association, and published under the authority given the State Superintendent to prepare a course for high schools, has created a standard for high schools that, once given statutory sanction, may bring the day of State examination of high-school students. And the laws making the State Superintendent a member of the boards of the three State educational institutions, and president of one of them, and the Governor a member of two and the president of one, have pointed the way toward the welding of all the school interests under one supervisory authority. In fact, there is hardly a direction in which some step has not been taken toward central control, except in the matter of common school finance, other than the school fund, and the regulation of the independent colleges, other than the normal schools. And yet it must be said that the great, the vital, powers of educational administration are to-day exercised by the local authorities.

#### CHARITIES AND CORRECTIONS

The most important act in the development of the charities and corrections of Iowa was that of March 26, 1898. This act at one stroke consummated the centralization of the control of State institutions under the Board of Control. Only second in importance was the act of April 7, 1900, which provided that the Board of Control should have power to inspect and supervise local institutions, county or private, in which insane persons are cared for. This law marked the first step toward the central direction of local





administration in the administration of charities and corrections. Though the administration of State institutions and the administration of local institutions are closely related, it will conduce to clearness if they are distinguished and discussed somewhat apart. And first, of the local administration.

The local administration of charities in Iowa has been confined to poor relief, and, largely as an incident thereto, the care of the insane. The care of the blind, of the deaf and dumb, and of the feeble minded, has ever been assumed by the State. Local correctional or reformatory administration is lacking, while that of a punitive character is confined to the prisons or jails.

The care of the poor, throughout the entire history of the State, save for a brief wavering at its beginning, has been a charge upon the county. And, since 1851, the counties have been left amenable to their own consciences in the care and inspection of the jails. Previous to 1851 only the general laws regulating the management of prisons and the care of prisoners afforded any guaranty that abuses would not exist, and though bills have been introduced at various times for a State prison commission, none has been enacted into a law. And it is probable that in the jails there are to be found at the present time conditions as deplorable as were those in the local institutions where the insane are kept before the act of April 7, 1900, became a moving force.

This act imposes upon the Board of Control the duty of inspecting, through its own members, or persons appointed by it, all private and county institutions, where insane persons are cared for. The advance was made not in response





to any avowed intention to centralize charities generally in the care of the State, but simply because it was essential to give the Board this power, if its authority in regard to insane already in the State asylums was to be adequate.

The administration of the State institutions evinces two chief periods: that from the foundation of the institutions to 1898, a period of large administrative independence; and that from 1898 to the present time, a period of administrative dependence upon the central board. But there is the lively suggestion, at least, of a third period, a period of agitation and transition, with elements of limited centralization. Of the fitful career of the penitentiary at Ft. Madison, of its administration in a dozen different ways, of the rise and growth of the State institutions under varying forms of guidance and government—this their history down to 1898 would tell. But for want of space we may dispatch it here with the observation that the usual type was administration by a local board of trustees, modified slightly in later years by a certain central authority exercised by the Governor and the Executive Council.

It may be said that the report of the Healy Investigating Committee of 1897 is the one document of prime importance in the history of the State charities and corrections. It constituted a cogent and severe indictment of institutional administrative independence. Faults and blemishes it found on almost every hand. Lack of uniform method in the purchasing of supplies for subsistence or construction purposes; the consumption of different grades of supplies in hospitals treating the same kinds of patients; the intermingling of different funds, in violation of law; the non-observ-





ance of statutory limitations in expenditures for specific purposes; total failure in some places to audit bills, or auditing after the bills were paid; the payment of different salaries for the same services by institutions of the same character; these were among its general criticisms, but there were many others, and the committee found itself forced to a radical conclusion. "We attempted," it said, "with some care to prepare a list of statutory amendments, but on reflection it was ascertained that the greater number of such amendments can properly form a part of a measure creating a central or supervisory board. The disease is organic, and too deep-seated for the use of palliatives."

And thus the most radical step that Iowa has ever taken in the reformation of its administration was witnessed. The Board of Control, if outward signs and every evidence of inward conditions are to govern the judgment, has been most successful. Indeed, it is to be doubted if any other branch of the administration has even approximated the excellent results that have been attained in charities and corrections under this high degree of centralization. It has been demonstrated that it has achieved a great financial saving, and it is averred that the improvement in the condition of the inmates of the various institutions, in the character of the service in such institutions, in equipment, and general *morale*, have been no less conspicuous. Certain it is that many in other States, seeking means to improve their administration of charities and corrections, have turned to Iowa for instruction. One supreme lesson we may read from this: that any radical change is not to be discredited simply because it is far-reaching and the offspring of temerity.





## PUBLIC HEALTH AND SAFETY

Only in recent years has the health administration been considered in Iowa as much more than an accidental phase of government. An inland State, it has been free from those epidemics of foreign importation which occasionally have ravaged the coast States, epidemics that have caused the insistence upon strict quarantine and preventive measures. The advancement of the health administration in a number of eastern States has often been given its primary impetus by the yellow fever, the Asiatic cholera, or other scourge from abroad, until the State afflicted has made a virtue of necessity and brought its health administration to a high degree of perfection. There has been no such spur to the Iowa law-makers. Moreover, the lack of large cities and the diffusion of population over extensive areas have tended to conceal or moderate the appearances of disease, even when of serious extent, disease that might in congested districts, because of its more evident destruction, have aroused public demand for reform. Add to this the general conviction, founded as it is in fact, that the health of the State is unusually good, and it needs little further to explain the slowness with which the machinery of health administration has developed.

For it has developed slowly. Down to 1866 the health administration was purely an incidental function. The earlier laws took one of two forms, in the one case vesting in electors the duty of removing nuisances and otherwise caring for the public health; in the other, imposing this duty upon the mayor and council. Not until 1853 do we find specific provisions for health officers, and then only in





isolated instances. In 1866, however, the health administration was made an obligatory function, an act of that year having constituted the mayor and council of any incorporated town or city, or the trustees of any township not incorporated, a board of health. The powers of such board were full, definite, and described in considerable detail. The results of the establishment of such local boards, however, were not particularly obvious.

In 1880 a step was taken toward the supervision of the local boards by a State authority. In that year the State Board of Health was created. Legislatures are occasionally diverted, or practiced in statesmanship—it is difficult to tell which—by the creation of an apparatus calculated to produce or consume *ad libitum*, yet so cunningly put together as to have no digestive or assimilative paraphernalia whatever. The State Board of health had all the outward show and panoply of strength. Inwardly it was a vacuum. Local boards were required to report to it. There was little or no means to make them do so. Local boards were required to observe its regulations. Another instance of the irony of the law! The State Board should collect vital statistics. But the vital statistics collected have ever been notorious for their worthlessness. In fine, in everything that relates to its connection with local boards, the State Board of Health, until the year 1902, was but a caricature of what it might have been had the law been framed by minds less timorous.

On the other hand, in those spheres in which the Board of Health acted as a peculiarly State authority, it accomplished much. Its publications, the dissemination of infor-





mation concerning disease and sanitary conditions, assistance in diagnosis, the introduction of a system of licensing embalmers—these things, among many others, attest its serviceableness.

Finally, in 1902, the occasion being the great small-pox pest of that year, the State Board of Health was given the authority that it should have had from the first. It was empowered itself to put its rules and regulations into operation in any community neglecting to observe them. It is too early to give statistical evidence of the operation of this law, but that great benefit is to be expected from it there can be little doubt.

In addition to this development of central control in what may be considered peculiarly the health administration, it is to be observed that in auxiliary matters some advance has been made. The creation of the office of State Veterinary Surgeon in 1884, the centralization in mine inspection in 1880, and the power granted to the State Dairy Commissioner in 1892 to inspect milk in cities of over 10,000 population, all have evinced a tendency to bring the public health and safety under the closer scrutiny of the State administration. Both the State Veterinary Surgeon and the Mine Inspectors have a certain connection with the State Board of Health.

#### PUBLIC FINANCE

The income administration of the State of Iowa, and its finance administration generally, is instructive, not so much for what it now is as for what it has been. As a development it is of striking suggestiveness. In those branches of the administration which we have reviewed, the State legislature





and the executive agencies of the State have guided the development, but here we come into contact with the judicial department. Judicial decision has played a great, a disproportionate share in the finance; and but for it there might to-day be a far different system, so far as taxation is concerned, than that which exists. There is little of present interest in the finances of Iowa prior to 1851. With the Code of 1851, well-nigh revolutionary changes in the organs of county administration, and so in the local administration of the income, were made. There were also sweeping alterations in the taxing system, both in the laws of the taxes and in the machinery of their administration. We may here pass over the County Judge and the question of local finances in 1851—though they are of surpassing interest—and come to some consideration of segregation, State assessments, State equalization and the State control of local financial administration.

Though there had been several antecedent developments of minor importance, the law that made segregation, or the separation of State and local sources of income, of material importance was that of 1862 taxing railroads on their gross earnings. At first a half of the income from this tax was given to the State and a half to the counties. Later the counties fared better. They were allowed four-fifths of the proceeds, while the State was to be content with one-fifth. Nothing under either law was to be given to the cities. This fact was to wreck the system and bring about the general property tax on railroads. The city of Davenport, after several years of sharp fighting in the courts, finally wrested from the Supreme Court a decision to the





effect that the law contravened the section of the State Constitution which provides that "the property of all corporations for pecuniary profit shall be subject to taxation the same as that of individuals." It was by the narrowest margin that this constitutional obstacle was placed in the way of segregation. Davenport in its first case had received the favorable decision of the inferior court. On the appeal the Supreme Court was evenly divided, so that the finding of the lower court was affirmed only by default of majority. In 1872, as a result, railroads were made taxable upon their general property for State and local purposes.

But this decision did not put an end to all segregation. At various times, and until a second decision in 1899, telegraph, telephone, express, and insurance companies were made to pay taxes to the State alone. In 1899, however, Polk county having resisted the exclusive State tax on domestic insurance companies, the Supreme Court extended the effect of the decisions of 1864 and 1874, and decided that the county as well as the State was entitled to tax such companies. With the exclusive State taxes on domestic insurance companies there now went down the allied taxes, those on express, telegraph, and telephone companies. Thus the last and the conclusive blow was dealt to the segregation of State and local taxes, so far as corporations are concerned. The spirit of the State legislation had been toward the separation of State and local sources, to a large extent, from 1862 onward. And there is ample room for the opinion that the members of the constitutional convention, when framing the section of the Constitution that has wrought such havoc in the laws, did not intend the inhibition of





segregation that has resulted. There is ground here for a strong argument that judicial interpretation has defeated the public will and the public interest. At the present stage in the development of the science of finance, it is hardly necessary to point out the advantages of segregation and the well-nigh imperative need for it in any justly constructed revenue system.<sup>1</sup> The arguments upon which it is made to rest are arguments of practical administrative expediency. Is more than a hint needed to suggest to the reader's own mind a flood of reasons why the administration, hence politics, and so the public good, would be simplified, clarified, and potentially subserved, if to each grade of government a distinct source of revenue were assigned?

The other steps in segregation need be but briefly noted here. In 1896 the collateral inheritance tax law was passed, the proceeds from which tax go entirely to the State. The tax on peddlers, which had been a State tax, was transferred to the counties in 1897, though a new tax, that on itinerant physicians, was reserved to the State. These taxes and the various miscellaneous income from State offices, State lands, etc., constitute the only exclusive State resources at the present time.

In the history of taxation in Iowa, the discussion of State assessment follows naturally upon an examination of the separation of sources of income. For when segregation has failed, recourse has been had immediately in several important instances to State assessment, as though no jot of the central control once gained were to be sacrificed, except

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<sup>1</sup> See H. C. Adams, *The Science of Finance*, pp. 448, 449, 491.





under compulsion. Neglecting in this place the laws and developments of lesser importance, we may consider for a moment the laws of 1872 and 1900. When in 1872 the gross receipts tax on railroads was abolished and the tax on property valuation substituted, assessment and apportionment of such valuation upon a mileage basis by the Executive Council was provided for. And again in 1900 when express companies, telegraph, and telephone companies were made subject to taxation for State and local purposes on their property valuation, it was provided that the assessment should be made by the State Board of Review. The advantages of State assessment of properties extending over more than one taxing district are obvious. In the taxation of railroads, while a consensus as to the proper basis of taxation has hardly been reached in the United States, opinion is practically unanimous that when that basis is the general property the assessment must be by the State. Iowa, therefore, in this respect, has done no more than keep step with the progress of the day.

Whoever examines the history of State equalization in Iowa will be met with several surprises. For one thing, State equalization has a rather dim and uncertain beginning. Until 1900, except in four or five lonely instances so unusual that they leave one questioning whether they were not the fruit of some abnormal influence, the equalization was no more than a general county equalization of real property values. That is, there was no equalization of urban realty within a county on a different basis, i. e. at a different rate, from the farm values of the county.

The law did not provide for State equalization of person-





alty values until 1897. Even after 1897 the State Board of Review down to 1902 had taken advantage of its new powers in only two years, 1899 and 1900, and then with respect to live stock alone. The failure to adjust even the live stock values in 1901 seems to threaten, if not a discontinuance, at least a broken continuance, of any equalization whatever of personalty.

An estimate of the general results of equalization by the State Board can be merely an estimate of the adjustment of general real property values between counties. The sum total of these adjustments, it must be admitted, has been much to the advantage of the State. From 1870 to 1901 the reported values were increased at every equalization, except in 1900, running in amount from a sum under a million to over sixteen millions. But how many mistakes and inequalities, how much injustice and consequent harm to the State, must be hidden under those lapses in the law or the custom of the State Board which have left to a chance hit, or have wholly ignored, personalty and the urban element in realty.

The Revenue Commission of 1892 proposed a striking change in the State Board of Equalization, viz., a partial reorganization by enlargement through the addition of eleven persons, one from each congressional district, whose knowledge of values in their several districts would, it was believed, enable the Board to approach more closely to accurate justice in the adjustment of the burdens of taxation. It is to be hoped that the day will be hastened when State equalization, by the grace of a wise segregation, may be dispensed with. But as long as it continues, some such





measure as that recommended by the Revenue Commission would seem a very desirable thing.

If segregation has not been adopted by a State, or has been provided for or enforced in such a way that certainty has not been secured or responsibility located in the administration of the finances, or if State assessment or State equalization has failed to encompass these ends, there still exist possible measures whereby they can be realized in a greater or less degree. The local administration may be brought to a higher plane of efficiency by administrative control from the center. This has been a possible, but, except in the inheritance tax, not a practiced alternative in Iowa. Much that is worthy of reflection will be found in the negative history of discussion, of which it is made up, but nothing of actual experiment. The most striking fact in the history of this opinion apparently is that the central control of local assessments has never been seriously considered. States have often placed much reliance upon this device, but in Iowa it has been passed by. It has been neglected more than scorned, and it is probable that under favorable conditions and a winning presentment it might attract many adherents. The paramount object of almost every effort to secure a better local administration has been to insure the prompt collection and payment into the treasury of the sums due from the counties on the general State levy. It has been believed by many that the best means to bring this about was to make the counties absolutely responsible for the State levy. This amounted to a proposal for a legislative and judicial control, and not for the administrative control above suggested. The second, and only other im-





portant means, suggested with any emphasis or at all continuously, for the betterment of State and local organs in matters of finance, has been that of a central inspection or direction of local accounts, or the two of these instrumentalities combined.

Thus we see that there have been certain broad tendencies at work in Iowa, powerfully shaping the course of the income administration. It is to be observed that the correlation of some of these forces is rather close. Judicial decision stands out as the correcting medium. Judicial decision has grievously arrested the course of a healthful separation of State and local sources of revenue, with the attendant prospect of a simplified administration and a greater certainty in taxation. But as judicial decision has destroyed, it has also been the occasion for bringing to the front forces which, to a degree, have served much the same purpose as segregation. These forces are State assessment, and, indirectly, State equalization and the discussion of the State control of local administration.

#### CONCLUSIONS

It is impossible within the compass of these pages to attempt an analysis of the various branches of the administration so minute as to show just what elements of each may be considered local, and what State, in character. But a few general conclusions may be derived. Not many will dispute the contention that public education, public health and safety, charities and corrections, and the income necessary to the maintenance of the State services, are much more than local in their character. They have a local element, no doubt, but their Commonwealth significance





preponderates. If this be true, how eminently fitting is it that in the course of time the State should have been given a larger share in their administration. For the description of a function of government as a State function, or a local function, is an assertion that it is most successfully administered when administered by the grade of government in which it has been classified. Only a part of the confusion has been removed in Iowa; there are still many treacherous spots in our administration which make it an easy prey to politics. The cities are as yet the victims of legislative administration; their sphere of local home rule has been poorly defined, or defined not at all.<sup>1</sup> But for what has been done the citizen should be grateful; and by it he should be encouraged.

If this article has suggested in the slightest measure the delicacy of the problems of administration that lie hidden in our Commonwealth government, it will have achieved its purpose. Delicate they are indeed, some of them calling for a refinement of legal and political science which demands all the intricacy of highly developed economic and social organs, and yet must cleave to the everlasting facts as closely as may be.<sup>2</sup>

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<sup>1</sup>See *State v. Baker*, 89 N. W. 204. It is remarkable that this case, decided in February, 1902, was the first in which the position of the city and its relation to the State was at all closely defined. Judge Deemer, who wrote the opinion, was of course strongly guided by the precedents of the general law of municipal corporations. At the same time, one cannot escape the impression that he was deeply influenced by the writings of publicists, a thing that must be applauded by every one cognizant of their sterling contributions in this field of study.

<sup>2</sup>An instance illustrative of the delicacy of some of the problems





Can we read the signs of the times and be mistaken in the belief that there is an insistent demand for disinterested non-political study and work in administrative law. The words of Dr. Andrew D. White, calling for endowments for the study of comparative administration, are fresh in our minds. At a recent eastern university commencement, at which the Governor of New York was publicly honored, no words were spoken more fitting and more timely than those in praise of his "thankless" constructive labors in the fields of public finance and public administration. A thousand doctrines and dogmas have fallen by the way, a thousand will fall—but who can doubt that the law and the privilege of service, the religion of work, will continue to increase in

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of administrative law is to be found in the school tribunals of America, or, more immediately, in those of Iowa. If it were attempted to trace exactly the jurisdiction of the county and State superintendents, a very devious line would result. In Iowa there is a shadowy borderland in which both the school courts and the regular judicial tribunals exercise jurisdiction, and there is a wide field in which the judicial tribunals may supplement, direct, or even control the school courts, through their writs of mandamus, certiorari, or injunction.

The school court is as yet embryonic, and, like all administrative courts in this country—saving always the justices of the peace of the colonial and early State period—it is an exotic. But it should none the less be carefully preserved. It probably contains the germ of much that will prove beneficial in American government. It will develop slowly, no doubt, but the separation of justice from administration in continental countries has been only a very gradual thing. As Gneist says of the development in the German states: "*Trennung der Verwaltung von der Justiz' macht sich daher zuerst im Polizeirecht als eine gebieterische Forderung des practischen Lebens geltend, vollzieht sich aber in den einzelnen Territorien sehr langsam und unter zahllosen Variationen.*" Rudolph Gneist, *Der Rechtsstaat*, p. 118.



the cubits of its strength. And, if so, in what field, considering our present public needs, can it plead more eloquently for followers than in the field of administrative study—a field barren to the outlook, and, it may be, discouraging to the first research, but containing the secrets of social organization and the practical solutions of social difficulties.

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## THE DEVELOPMENT OF PARTY ORGANIZATION IN IOWA

The importance of party organization is but dimly recognized by the average citizen. The part it plays in the working of our governmental system—from the school district to the national government itself—is not generally understood by the great mass of voters in whose loyal adherence it finds its chief support. Though the fact of organization is seen on every hand, the motives which are behind it, the methods used by it, and the results attained through it are not so evident. On the contrary, there is a distinct lack of appreciation of the real significance of these great organizations whose beginnings date back to our first experience as a nation. This unsatisfactory condition is due partly to actual ignorance and partly to the confusion which has arisen from the extreme emphasis placed by many students of politics upon that portion of the party organization which has come to be known popularly as the “machine.” The failure to distinguish properly between the rural party organization and that of the city has added to this confusion. Indeed, the question of rural party organization has been almost wholly neglected, while that of municipal party organization has received extended discussion and has been taken as representative of the organization throughout the entire country. And this is the real situation in spite of the fact that the great majority of our people are members of the rural organizations.





The study of party organization in its larger aspects is a work of the future, but it is a work which must be accomplished before any adequate understanding of our party history and our governmental theory can be attained. A number of points of view will be elucidated in such a study. Among these are: (1) the party organization as the agent of the people in the administration of government in harmonizing the interests of the legislative and executive departments; (2) party organization as a unifying force in the life of the people; (3) the psychology of party organization; (4) the significance of party discipline; (5) the influence of party organization upon the social, educational, and even religious life of the people; (6) the immense power wielded by the organization through the control of party nominations. In addition to these are the well worn questions of the spoils system, the corrupt use of money, and the use of the party machinery to promote the selfish interests of the party managers. In all these different phases the subject of party organization offers opportunities for investigations which will, no doubt, be valuable contributions to our stock of knowledge and throw additional light upon our local and national history.

The following brief account of the beginnings of the party organizations in Iowa is not an attempt to discuss the subject in the manner suggested above, but is simply the foundation for a future study in which the elaboration of these points of view may be undertaken. For the present, it is the purpose to trace the development of party machinery in Iowa from its beginning to its present perfect state. The result will be the outline of the mechanism of our political





parties; their motives and methods are reserved for future consideration.

There are two kinds of party organization, the distinction between which should be made at the outset. There is what may be called the "paper" organization, which may be easily effected; and there is what may be called the "institutional" organization, which has its roots deep in the minds of its members and which requires years for its development. The former is best illustrated by the organizations of the minor parties. A State central committee composed of one member from each congressional district is appointed; a congressional committee composed of one representative from each county is chosen for each congressional district; a similarly constituted committee is selected for each judicial district; and in each county a committee is organized which is composed of representatives from all the townships in the county. The mechanism is complete, but in spite of its completeness is ineffectual because it is artificial in its nature and does not exist in response to the demands of any considerable part of the people. It exists for the most part in the minds of the few men who are its promoters and managers. It is not a great organic party, although it manifests all the outward signs of an organic party. As a matter of fact it is far from possessing this complete machinery—a condition which only emphasizes the radical difference between this imperfect organization and that which is genuinely institutional in its character.

This latter type is illustrated by either of the great parties, but especially by the Democratic party which has behind it a century of unbroken tradition. Its outward





appearance is the same as that of the minor party; its form of organization is the same; and its methods are the same. But it differs from the minor party as the sound nut differs from the empty shell; and it differs in precisely the same manner. The one is a complete organization with that inner vital life which makes it the organic party that it is; the other is the mere outward form—the empty shell. The difference is a psychological one. Men are born into the Democratic party and instinctively become an inherent part of this great mechanism. They unconsciously acquire the *habit* of Democracy, as it were, and act with that party as naturally as they adjust themselves to the social world of which they are a part. It is this institutional organization which has made our great parties live from decade to decade, and has given them the mighty power that is theirs. It is this type of organization which offers to the student of politics a rich field for research and study. An appreciation of this point of view is essential to a correct understanding of party organization in Iowa.

The first settlements in the State were made at a time when Andrew Jackson was at the height of his power. Party discipline had been made effective. The spoils system had but recently been introduced, and the efficiency of thorough organization been made manifest. The early settlers of the Black Hawk Purchase, which was then a part of the Territory of Michigan, were largely from the southern States where party feeling ran high and party lines were rigidly drawn. The instinct for politics was in them. The training for party management was theirs. Naturally one of the first suggestions that came to them after their emigra-





tion to the country west of the Mississippi was their organization as a part of the great national parties to which they belonged. By this means better than any other could their interest in national politics be maintained and the local interests of their new home promoted. But their first efforts at organization were not only the result of a desire to serve the public good; they were a necessity. The germ of party organization was in them, and it could no more help springing into life than can the bud into bloom. Even though the organization at first was very incomplete and far less efficient than it has since become, yet it satisfied the instinctive desire of the Iowa pioneers for party association. They were unable, and indeed had no inclination, to discard their party prejudices and antipathies, and this early organization was a natural outgrowth of their strong party convictions. In other words the consciousness of membership in the two great parties was brought to Iowa by the first settlers, and the local organizations began at once to develop along the lines followed in the States from which they came. The fact that the population was very small and that the influence of the Territory upon the current political opinion was quite imperceptible, was either unthought of or ignored. The first opportunity to draw party lines, and by so doing to furnish the necessity for local organization, was seized with avidity, and used in as effective a manner as the territorial conditions would permit.

This opportunity came in the year 1836 just after the creation by Congress of the Territory of Wisconsin, in which the Iowa District was included. The occasion was the election of the first territorial legislature in which the





Iowa District was represented by eighteen members in the House of Representatives and nine members in the Council.<sup>1</sup> At once after the organization of the Territory and even before the apportionment of the representation to the different counties by Governor Henry Dodge, candidates began to announce themselves and to make appeals to the voters for their support. The only records we have of this first campaign are found in the files of the *Du Buque Visitor*, the first newspaper published within the limits of the Iowa District.<sup>2</sup> The first reference to the pending campaign is found in the issue of August 10, 1836, in which the following announcements appear. These may be taken as typical of the statements made by the candidates and their friends in announcing their candidacies.

Messrs. Editors:—You will please to insert in your paper, that I intend offering myself as a candidate for Constable for this county at the ensuing election.

Yours respectfully,

Durango, 5th July, 1836.

C. KELLER.

Whether Mr. Quigley or his friends were responsible for the second announcement is veiled in mystery.

If Patrick Quigley, Esq. will consent to become a candidate for the Council at the ensuing election, he will be supported by  
Du Buque, Aug. 10, 1836.

MANY VOTERS.

The first suggestion as to the need of concerted action in

<sup>1</sup> Of this number Des Moines County was entitled to 7 representatives and 3 councilmen; Iowa County to 6 representatives and 3 councilmen; and Dubuque County to 5 representatives and 3 councilmen.

<sup>2</sup> Published May 11, 1836, to June 16, 1838. On file in the library of the Historical Department of Iowa, Des Moines.





the nomination of candidates is in a communication from a citizen who signed himself "Voter," which appeared in the issue of the *Du Buque Visitor* of August 17, 1836. He suggested that in order to have every part of the county represented in the legislature, a convention of the citizens of the county should be held at Dubuque or some other suitable point, for the purpose of nominating candidates. This convention, he thought, would give the people an opportunity to become acquainted with one another and with their candidates, insure equal representation to the different parts of the county, and guarantee the capability of the men nominated. This communication brought forth a protest in the issue of the following week, in which it was claimed that the candidates had the right to announce themselves in any civil manner they may choose. A week later a second protest against the plan of calling a caucus appeared. This came from a candidate, who closes his protest with this eloquent defense of the people's character. "This people, this enlightened people revolt at the idea of relinquishing their free right of suffrage into the hands of a few self-important individuals." Two weeks later, in the issue of September 14, "Voter," the originator of this discussion, replied to his critics and argued strongly for the county convention. He takes pains, however, to state his opposition to the "secret caucus system." The following week another citizen, signing himself "A Miner," answered the criticisms of those opposed to the convention and announced a meeting to be held on Saturday, October 1, for the purpose of nominating a candidate for delegate to Congress and candidates for the territorial legislature. It was expected that those who were





striving for the nominations would be present and address the convention.

Thus far the discussion had been carried on by men of both parties, and the effort to secure a convention to nominate candidates acceptable to all the people was an attempt to promote a non-partisan election. It is fair to suppose, and later developments seem to substantiate the claim, that the Whigs, who were greatly in the minority, were largely responsible for this non-partisan plan. But the Democrats, much stronger in numbers than the Whigs, could not endure the thought of seeing men of opposite political faith filling offices which they themselves had power to control. The instinctive feeling of opposition to anyone and anything not in sympathy with the time-honored Democracy, came at once into play. Democrats were of one accord. All desired to see their party supreme in the new Territory. But this desire to control the acts of the legislature, and through them the destiny of the Territory, was due no more to their belief that their party could best serve the interests of the Territory than to their inborn wish to present an unconquerable opposition to their political opponents. Devotion to their party led them to look upon this first campaign as a propitious one in which to effect a local organization. Accordingly, the following call for a convention, which illustrates in an excellent manner the institutional type of party organization, appeared in *The Du Buque Visitor* of September 21, 1836—the issue which contained also the call mentioned in the preceding paragraph.





## A CALL.

To the Democrats of Du Buque County.

An important election is about to be held for the choice of Councilmen and Representatives in the Legislative Assembly of this new Territory. At such an important epoch as the first election for legislative officers for this vast scope of country, it is not proper that the Democracy of this county should stand idle. The price of liberty is eternal vigilance. The character of the first Legislative Assembly will have an important bearing upon the future political prospects of the States that will be formed from this Territory. The enemies of the people are always upon the alert. They are always ready and anxious to plant their noxious principles wherever they will take root. Let not the Democracy of the county be stigmatized as too dull to apprehend their rights, or too indolent to maintain them. But, fellow-citizens, be not deceived by hollowhearted professions of friendship. We have been told that all who cry Father! Father! shall not enter the Kingdom of Heaven; neither shall all those who cry "Democracy" and "the people" be considered as genuine disciples of Jefferson and Jackson. There are those who, to effect a temporary object, may seem to adopt our principles, although they are at variance with their past conduct. Trust them not; they have clothed themselves with the lion's skin, but elect them to office and they will show by their braying what they are. You hear a great deal said, fellow-citizens, about "no-party,"—that the citizens of this Territory have nothing to say in politics, and that the question should not be raised at the coming election. These are but the arts and snares and stratagems of a wily enemy. Examine the list of candidates offered. How many of them do you recognize as your political friends, who stood by President Jackson in "days of panic," and whose good wishes now are for the success of the Democratic candidates, Van Buren and Johnson? Depend upon it, those who are not for us are against us. "No party men" and "fence men" are always against the Democratic party—and we had better have an open enemy than a pretended friend.





It is well known that a large majority of the citizens of this county are democrats, friends of Jackson and Van Buren, and it is highly important that this majority should have something to say in the choice of public officers. They can only effect their object by union and concert of action among themselves. In union there is strength and victory. But if we permit our enemies to retain the vantage ground which they have assumed—if we suffer our strength to be frittered away by casting our votes in the dark for candidates with whose principles we are unacquainted and without any understanding amongst ourselves, we shall ensure the election of a majority of our political opponents. For the purpose, therefore, of ensuring concert and union among themselves, the Democratic Republicans of Du Buque County are invited to meet at the cabin of Mr. Miller at the mouth of Bee Branch on Cooley, near Samuel Hulitt's, on the 26th day of Sept. (inst) at 10 o'clock A. M. for the purpose of taking the necessary steps preparatory to the next general election in this Territory.

Sept. 19, 1836.

MANY DEMOCRATS.

The convention was held in accordance with this remarkable call, and in the next week's paper appeared an account of the proceedings. The chairman of the convention was W. W. Chapman, who was afterwards the first delegate to Congress from the Territory of Iowa.<sup>1</sup> A committee of eleven was appointed to select the candidates for the ensuing election, and a committee of five to draw up resolutions and an address to the people. Col. George W. Jones was nominated for the office of delegate to Congress, three of the leading citizens of Dubuque for the Council, and four for the House of Representatives.<sup>2</sup> One vacancy in the list

<sup>1</sup>The Territory of Iowa was organized July 3, 1838.

<sup>2</sup>The candidates nominated for the Council were Stephen Langworthy, John Foley, Thomas McCraney. Those nominated for the House, H. T. Camp, P. H. Engle, Hardin Nowlin, Patrick Quigley.





of candidates for the House was left to be filled by the Democrats from the lower end of the county, who were not represented in the convention. The report of the committee on resolutions expressed great confidence in General Jackson and his administration; considered the election of Van Buren and Johnson as necessary to the country's prosperity; deemed it necessary that the laws of the Territory should be democratic in their features; condemned the acts of their political opponents; and required the candidates of the convention to pledge in writing (the pledges to be published as well) to do all in their power to secure the seat of the territorial government for Dubuque.

Two of the candidates<sup>1</sup> nominated at once prepared and had published long communications in which they accepted the nominations, stating how unworthy they would be if they refused to respond to the wishes of the people, and giving their personal views upon both local and national questions.

In this same issue of the *Visitor*, that of September 28, 1836, appeared a call, signed by "Many Voters," in which the miners and citizens of Dubuque County generally, who were opposed to caucus dictation, were invited to meet at the Methodist church in Dubuque on Saturday, September 31, for the purpose of making arrangements for the coming election. It was expected that the candidates for the legislature would be present and again address the people.

When the day of the election arrived there were seven active candidates for the three positions on the Council, and seventeen candidates for the five places in the House of

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<sup>1</sup>P. H. Engle and Stephen Langworthy.





Representatives. The Democrats succeeded in electing two of the three candidates for the Council and all four of the candidates nominated for the House.<sup>1</sup> Although no records could be found to give the facts, it is probable that the manner of conducting the campaign and the election in Des Moines and Iowa counties was similar to that used in Dubuque. As compared with the thoroughly organized campaigns of the present day, it was most simple and ineffective. The campaign was almost entirely a personal one in which the candidates themselves took the largest part. In fact, the work of the candidates was practically all that was done to promote the interests of the opposing parties. There were no central committees to direct the campaign and to effect an organization of the party workers for a thorough canvass in the different counties. Several years were to pass by before this feature of the modern party organization was to be adopted.

The death, in the spring of 1837, of one<sup>2</sup> of the men elected to the House of Representatives, caused a vacancy which was filled at a special election held July 10, 1837. The methods of nominating the candidates and conducting the campaign were similar to those already described. Some of the candidates announced themselves; others were brought forward by admiring friends. Some were nominated in

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<sup>1</sup> The number of votes polled in the town of Dubuque was 621, while the vote of the whole county exceeded 1000. Not all the votes, however, in the southern part of the county were polled. It is possible that an earlier election may have been held while Iowa was still a part of Michigan Territory, although no records to this effect were discovered.

<sup>2</sup> H. T. Camp.





mass conventions in different sections of the county; others came before the people without this formality and without the prestige which accompanied a convention nomination. All the candidates made use of the columns of the newspaper to communicate with the voters. Each one used whatever methods he deemed most effectual. A campaign more picturesque than that conducted by the modern smoothly and silently working machine, was the inevitable result. Men were just as eager for office then as now; just as willing to sacrifice themselves to the call of public duty; but the science of political management had not then been developed to its present state of perfection.

In 1838 the territorial government of Iowa was established and an election of a territorial legislature was called for September 10th. At once party politics took on a more aggressive appearance, although party lines were not generally observed in the first and second elections—those of 1838 and 1839. In these first elections members of the legislature and delegates to Congress were the only officers chosen, and the Territory being so new, questions of purely local interest prevented the division of the voters upon strictly party lines. But in 1840 the whole situation was changed. Political enthusiasm ran high. The spirit of the great presidential campaign in the States pervaded the whole Territory.

During the two or three years preceding the campaign of 1840, large numbers of new settlers had come to Iowa, bringing with them strong party convictions and an enthusiasm greatly excited by the coming presidential election. Iowa could have no part in that election, but that was no





reason why the followers of Harrison and Van Buren should be idle. The hereditary party feeling was too strong to permit of an inactive campaign. The result was that for the most part the legislature was elected by a party vote, the Democrats securing a small majority in both houses. In some of the eighteen counties which existed then, the county seat question and other considerations of a local nature prevented this strict party division. The Whigs seem to have lost more than the Democrats by defections of this kind. But even in these counties the minority party was so aggressive that it was necessary to look after the interests of the majority with the utmost care. This intensity of party feeling was strengthened by the efforts of the Democrats during the summer of 1840 to effect an organization of the Democratic supporters throughout the Territory. Many Democrats were opposed to this movement, but the promoters of the plan arranged for a territorial convention, which met at Bloomington (Muscatine) August 19, and nominated General A. C. Dodge for the office of delegate to Congress. The convention was not a large one, and was gotten up in a very informal manner. It was, however, the first attempt at party organization for the whole Territory, and as such is of peculiar interest to the student of this period. The editor of the *Territorial Gazette and Advertiser*,<sup>1</sup> published at Burlington, referred to the nomination of General Dodge in 1840 in these words:

The nomination of General Dodge by the democracy was the first step that had ever been publicly taken in the Territory towards a

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<sup>1</sup> Editorial in issue of June 26, 1841. File of *Territorial Gazette and Advertiser* at the library of the Historical Department, Des Moines.





distinct party organization. A very respectable minority resisted the drawing of party lines as impolitic and out of time; and although the majority of such in the end fell in with and supported the nomination, it is well known that there are some who refused to do so.

During the closing days of the campaign the Democratic leaders urged on the work of organization. As it became more and more evident that the Whig nominees on the national ticket would be elected, the zeal of the Democrats became more intense, with the result that they saved the day and elected General Dodge by a small majority.

When the legislature met in the fall both houses were organized on party lines, with the Democrats in control—a circumstance which tended to increase the already intense party feeling and gave a marked impetus to the work of organization. The actual control of the legislature gave the Democrats a knowledge of their strength; the fact that the Democratic majority in each house was very small made the Whigs see the possibilities that lay behind an effective party organization. The result was a greater activity among the rank and file of both parties, and a closer feeling of kinship among the party leaders in the legislature. It is a significant fact that the division of the parties in the legislature was due largely to a question of patronage. The question whether the legislative printing should be given to the *Hawkeye* or to the *Gazette*—the official organs of the Whig and Democratic parties respectively—was the cause of this division and was a bone of contention during the entire session.

The failure of several Democratic legislators, who were elected by the aid of the Whigs, to abide by their ante-elec-





tion promises that they would oppose the organization of the legislature upon party lines, gave great encouragement to the work of organization among the Whigs. The Burlington *Hawkeye and Patriot*, edited by James G. Edwards, a stalwart Whig, did valiant service for the party in its advocacy of concerted action. In the issue of November 12, the editor "trusts that all the Whigs in this territory will have an eye upon a thorough organization of the Harrison party before winter closes." Three weeks later there appeared an editorial on *Organization* in which it was urged that the Whigs should follow the Democrats in effecting an organization of the party throughout the territory. It was suggested that if a general meeting of the Whigs could not be held in some suitable place, steps should be taken at once to insure active and harmonious efforts in the interest of the party in the different counties. It was proposed that a general jubilee to celebrate the election of General Harrison to the presidency might be held at Burlington while the legislature was still in session, and that the plans for the organization of the party might then be adopted. But if this was inconvenient, a "Territorial Corresponding Committee" should be appointed who should correspond with such persons in each county as were recommended by the Whig members of the Legislature. These men should be instructed to call county meetings where the issues between Harrison and Van Buren should be discussed. In this way the Whigs could be united and victory assured.

Four weeks later, December 31, there appeared a call, signed by William B. Ewing and Henry W. Starr, for a meeting of the friends of William Henry Harrison through-





out the Territory to be held at Burlington, January 6, 1841. Although the time for circulating the notice of the meeting was very short, a goodly number of prominent Whigs from different parts of the Territory assembled at the appointed time. The meeting was held in the Methodist church and was presided over by R. P. Lowe of Bloomington. After a committee had been authorized to draw up a congratulatory address to General Harrison, resolutions to the following effect were adopted:—That the meeting should proceed to the organization of the Democratic Whig party, for the Territory of Iowa, with a view to produce a union and concert of action in regard to its interests and duties; that a central committee<sup>1</sup> to consist of five members from Des Moines county and one member from each of the remaining counties should be appointed; and that the meeting should recommend to the Whig voters in the several counties that they organize and appoint county committees and unite their influence with that of their fellow-citizens in an endeavor to produce a harmony of feeling and a zealous coöperation in every honorable effort to ensure success to the Democratic Whigs of Iowa in their future proceedings. In

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<sup>1</sup> The central committee chosen in accordance with these resolutions was composed of the following persons: Henry W. Starr, J. P. Bradstreet, James G. Edwards, J. D. Learned, W. B. Ewing, all from Des Moines county; Stephen Whicher, Jr. of Muscatine; G. C. R. Mitchell of Scott; Hamilton Robb of Henry; Horace Smith of Johnson; Daniel F. Miller of Lee; George H. Walworth of Jones; Isaac N. Lewis of Van Buren; Francis Springer of Louisa; James Crawford of Dubuque; Robert C. Bourne of Clinton; J. K. Moss of Jackson; Dr. J. S. Waugh of Jefferson; A. Cowles of Linn; S. P. Higginson of Cedar; Lemuel G. Collins of Washington; Quigley, P. M. of Clayton.





a second resolution it was voted to recommend the holding of a convention at Davenport on May 5, for the purpose of nominating a candidate for delegate to Congress, and to instruct the central and county committees to report at that time the progress that may have been made in organizing the party throughout the Territory. It was also voted that the Central Committee should instruct the county committees, and through them the people, to hold primary meetings at which delegates to the Davenport convention should be chosen. The representation in this convention was twice as many delegates for each electoral district, of which there were ten, as it had representatives in the legislature.

At once the Whigs began the work of organization throughout the Territory. The same form of organization was adopted in all the counties by the conventions called for that purpose. The proceedings in Louisa county were typical of those in all the counties. Here a mass convention was held January 6, 1841, for the purpose of selecting delegates to the territorial convention, of choosing a County Central Committee, and of perfecting plans for the local organization. A committee was appointed to submit a list of delegates to the convention and a list of persons to constitute the county committee. This committee was made up of one person from each township. Resolutions were adopted to the effect that, as vigilance and a perfect organization are the only means of preserving and perpetuating the principles of democracy, it should be recommended to the Whigs of each township to organize immediately by the formation of township committees of vigilance,





and by the adoption of such other measures as might be deemed expedient. The members of the County Committee were authorized to call meetings in their respective townships for these purposes. The County Committee was also authorized to call a convention at which candidates for all the county offices should be nominated. The resolutions also advocated thorough organization throughout the Territory and pledged the support of Louisa County to the candidate of the Davenport convention. Particular emphasis was laid upon the necessity of supporting the party ticket. It was the claim of the Whigs that they had the numerical strength to carry the Territory, and this could easily be done if all would unite upon a candidate and support him at the polls. The result was that in all these first county conventions the members pledged themselves to support the convention nominees and to discourage the running of independent candidates. Township meetings were held as recommended, vigilance committees appointed, and plans adopted for an effective campaign.

Similar plans were adopted in the other counties, and by the time of the Davenport convention the Whigs of the Territory had been pretty thoroughly aroused. The convention assembled May 5. All of the counties were represented except Dubuque and Clayton. The delegates from these counties were unable to attend because of the bad condition of the roads, resulting from heavy rains. The object of the convention was to nominate a candidate for delegate to Congress. After a brief and friendly contest Alfred Rich of Lee County was made the nominee. The Central Committee, appointed at Burlington, was instructed to





report to the people an address suitable to the approaching election. It was recommended to the counties that they hold conventions for the purpose of nominating full Democratic Whig tickets for the legislature and county offices, and that they discountenance the claims of all who would not submit to such arrangements. As an incentive for aggressive work it was voted to present a banner to the county giving the largest Whig majority for delegate to Congress.

In the meantime the Democrats were putting forth equally energetic efforts to unify the interests and organize the forces of the Democracy. After the election of 1840 it was borne in upon the Democrats that they held the Territory by a very narrow margin, and that unless they did organize the Whigs would soon have control. This feeling was greatly intensified by the success of the Whigs in effecting an organization at their jubilee meeting January 6, 1841. Indeed so urgent did the necessity for organization seem, that only eight days after the Whig meeting a similar meeting of the Democratic legislators and the Democracy of Burlington was held for the purpose of starting the work of organization throughout the Territory. They urged the Democrats of the different counties to adopt effectual measures for a thorough and efficient organization of the party, without which defeat would be inevitable. In the last three sections of their resolutions, their belief was expressed that the organization they desired could be best promoted and perfected by township, county, and territorial conventions; and the holding of such conventions was recommended in order that the nominations for the various offices might be made by the people themselves and not by a few active and inter-





ested parties. They recommended also the holding of a territorial convention at Iowa City on the first Monday in June for the purpose of nominating a delegate to Congress. It was voted further to request the Democratic electors of each county to nominate full county tickets and to discountenance the pretensions of all other aspirants of their own party. It was also decided that a Central Committee<sup>1</sup> to consist of five members from Des Moines County and committees of correspondence to consist of one member from each remaining county should be appointed, and that it should be recommended to the voters to organize county committees and to unite their influence with that of their political friends in an effort to produce a harmony of feeling and a zealous coöperation in every honorable effort to ensure success to the Democratic party in all its future proceedings.

The plan thus adopted was exactly the same as that adopted by the Whigs the week before, notwithstanding the Democrats of Burlington had ridiculed it at that time. In fact the resolution providing for the appointment of a Central Committee was taken almost word for word from that of their political opponents. Likewise, the plans fol-

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<sup>1</sup>The Central Committee chosen was as follows: Stephen Gearhart, John Johnson, George Hepner, James M. Morgan, J. W. Woods, all from Des Moines County; John Carns of Van Buren; Sullivan S. Ross of Jefferson; William Thompson of Henry; Thomas Baker of Washington; Samuel C. Trowbridge of Johnson; James W. Isett of Louisa; Edward E. Fay of Muscatine; Harman Van Antwerp of Cedar; Andrew Logan of Scott; Samuel R. Murray of Clinton; John G. McDonald of Jackson; Thomas McCraney of Dubuque; Frederick Andross of Clayton; John C. Berry of Linn; Thomas Denson of Jones.





lowed out in the work of organizing the counties were similar to those already described as being used by the Whigs. They provided for the holding of primary township meetings for the purpose of appointing township committees and devising plans for a more complete organization; for the appointment of delegates to the county conventions, at which full tickets should be nominated and a county central committee chosen; and for the selection of delegates to the territorial convention—each county to send twice as many delegates as it had representatives in the legislature.

As in the case of the Whigs, the party workers responded nobly to this call, enthusiastic meetings were held, and local tickets nominated, so that by the time June arrived the Democracy of Iowa was ready for the territorial convention and the vigorous campaign that was to follow. In this work of local organization great care was taken to impress upon the voters the need of supporting the party ticket at all times and under all circumstances. Each party claimed that the other was raising the "no-party" cry in order to mislead the critics, while at the same time it was secretly perfecting its own organization. But this was merely a campaign cry. Both parties, as expressed in their leading newspapers, were anxious for a strict party division; and they hoped to bring this object about by their thorough organization.

The Democratic territorial convention assembled at Iowa City at the time designated in the call. There were one hundred and fifty delegates present, representing all the counties except Scott and Clinton. General A. C. Dodge was renominated for the office of delegate to Congress, and





plans were made for an aggressive campaign. In the election that followed the Democratic candidate was successful by a majority of 513.

Our present political machines, which work so perfectly and effectually, are the evolutionary product of this early organization. The mechanism has remained the same. The form of the organization is unchanged, but its spirit and methods are entirely different. The evolution which has gone on has not resulted in the invention of new machinery, but in the perfection of that which already existed. This evolution, of course, was more rapid in the older counties. In the newer counties the work of organization gradually developed as the population increased and the importance of the local political units became greater. But in none of the counties was the organization made complete from the first. The work of establishing the county machine, with all its representatives in every township and school district, was slow, and for many years was attended with only partial success.

The institutional party was brought to Iowa by the first settlers, and the first organizations were due to their instinctive desire for party association and for affiliation with the parties in the States from which they had come. But as the Territory developed and the time drew near for her admission into the Union, the interest of each party in its organization was greatly intensified by the further desire to see the new State organized under its own supervision, and the policy of the new Commonwealth under its own control. The struggle over the question of holding a State constitutional convention, and the difficulty of secur-





ing the adoption of the Constitution after the admission of the State had been agreed to, were largely due to this contest for party supremacy. The tightening of party lines and attempts at party discipline were the natural result. A great impetus was given to the work of organization in both parties.

The advent of the slavery question into Iowa politics gave a second and even greater impetus to party activity. Although it meant, eventually, the division of one party and the dissolution of the other no change in the form of their organizations was due to its introduction. The Democratic party was inclined to be pro-slavery in its sympathies although many of its members were opposed to slavery extension and united with the Whigs in 1856 to organize the new Republican party. The Whigs were largely anti-slavery men, and, as the interest in the subject grew, were able to increase their strength until, in 1854, under the leadership of James W. Grimes they for the first time elected their State ticket. Opposition to Douglas's Nebraska Bill was the keynote of this campaign, and carried the State for the Whigs by nearly two thousand majority. The following year, with a total vote which had been increased by only five hundred, they were able to carry the State a second time by a majority greater by three thousand than that of 1854.

During these two years a new alignment of the parties was being made in most of the northern States. The opponents of slavery extension were coming together upon this single issue and organizing the Republican party to make their opposition effective. This movement met with





a cordial response from the anti-slavery people of Iowa. Immediately after the election of 1855 the plans for the organization of the Republican party were made, and by the first of the next year the time was ripe for a public announcement. In the issue of January 14, 1856, of the *Muscatine Journal* is found the following call which was written by Governor Grimes, although that fact was not made known at the time.<sup>1</sup>

TO THE CITIZENS OF IOWA.

Believing that a large majority of the people of Iowa are opposed to the political principles of the present administration, and to the introduction of slavery into the territory now free, and also that made free by the compromise of 1820; and that the party, styling itself the "Democratic party," are striving to make slavery a great national institution, contrary to the principles laid down in the Declaration of Independence and the Constitution; as taught by the fathers of the Republic; we would call upon all such free citizens to meet in convention, at Iowa City on the 22nd of February, for the purpose of organizing a Republican party, to make common cause with a similar party already formed in several other states of the Union.

Jan. 3rd, 1856.

MANY CITIZENS.

The other Whig papers published the call, and at once the work of organization began in all parts of the State.

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<sup>1</sup>In the same issue of the *Muscatine Journal* is found this editorial comment upon the call for the Republican convention. "Papers friendly to the above call will give it a publication in their columns, and urge upon their countrymen the importance of a representation in said convention. It will hardly be expected that a large delegation will be in attendance; but then, those who do go should be good men and true." File of *Muscatine Journal*, in the library of the Historical Department, Des Moines.





Mass and delegate conventions were held in all the counties, and representatives chosen to the Iowa City convention. Great enthusiasm prevailed. Democrats of long standing united with their old-time political opponents in this effort against the extension of slavery into the territories. The convention, which assembled on February 22, 1856, more than satisfied the friends of the movement. The *Muscatine Journal* speaks of it in these words:

It was the largest, most intelligent and enthusiastic ever convened in the state. The old settlers who have attended all the political conventions of the state since its organization, were unanimous in the opinion above expressed. Democrats who thronged the lobbies and aisles of the chamber during the session of the convention, frankly admitted that it never had its equal in point of numbers or ability in Iowa. We noticed one fact indicative of the character of the newcomers to this state, that the ablest speeches were delivered by those who have not resided within our borders over two years. The "old stagers" who have heretofore controlled, and we might say moulded, all the state conventions to suit themselves, found in this convention a growth of young giants who overpowered them in many a well fought encounter and placed themselves side by side with the best intellects of the state. This was a most refreshing evidence of the sincerity of the mass. Every member of the convention thought for himself, and subscribed to the dictation of no other, and hence the honesty and integrity of the members, and the value of their proceedings.

Four hundred delegates from all parts of the State were in attendance. Philip Velie of Lee County was made chairman, and J. T. Lane, N. M. Hubbard, J. B. Stewart and C. C. Nourse were elected secretaries. Committees, consisting of one member from each county—thirty-nine in all





—were appointed to draw up resolutions and to choose candidates for State officers, presidential electors, and delegates to the national convention. Only one issue was considered in the resolutions as adopted—that of opposition to slavery extension. In addition to the resolutions, there was issued an address to the people prepared by a committee of which Hon. J. B. Grinnell was chairman and Samuel J. Kirkwood and William M. Stone, future Governors of the State, were members.

The organization adopted by the Republicans was the same in form as that of the Democrats and Whigs. A State Central Committee<sup>1</sup> of five members was appointed. A committee of five in each of the two Congressional districts was chosen. County committees composed of representatives from all the townships were organized. Mass conventions were held, and every opportunity seized to make clear the issues between the two parties.

This organization was as much institutional in its character as that of either of the two parties from which its members were drawn. The instinct for organization was in them as in the first settlers of the State and the experience gained in the many heated contests between the Democrats and the Whigs gave them a knowledge of practical politics which was invaluable to them in the great campaign about to be waged in the cause of liberty. Their great success in this cause was due to the fact that their ability to use party

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<sup>1</sup> The members of this first Republican State Central Committee were as follows: A. J. Stevens of Polk county; J. P. Grantham of Henry; W. E. Miller of Johnson; John Casady of Poweshiek; and S. M. Ballard of Audubon.





organization was reinforced by a profound conviction upon a great moral as well as upon a political question. To them the fate of the Republic hung in the balance, and their zeal for party supremacy was increased immeasurably by their championship of human rights. Furthermore the movement for the new party was a movement among the masses of the people and not among the political leaders alone. Otherwise it could not have developed into the great organic party, which it now is.

As the summer of 1856 passed and the election day drew near, the Republican organization became more efficient and more complete, until, in the minds of its members, it was almost irresistible. It won a sweeping victory in the election, and proved in an effective manner its inherent power.

In the *Dubuque Republican* of November 26, 1856, is the following statement which expresses in a few words the feeling of the leaders of the new party:

The Republican party of Iowa is now fully organized, and holds within its hands the destinies of the State. The Executive, Judiciary, and both branches of the legislature are Republican, and the convention to revise the Constitution of the State has a strong working Republican majority.

The foregoing is a brief account of the beginnings of party organization in Iowa. As has already been suggested, our present great organizations are the outgrowth of these early attempts at party management. There has been a continuous development from that time to this. But this development has not altered the outward form of the organization. The State, the congressional districts, the judicial districts, the counties, and the townships are still the basis





of its existence. A division of labor among the respective committees is still the rule of procedure. But the motive that controls the organization, and the methods by which its work is accomplished, are very different.

No greater mistake can be made by the student of this question than to carry the present conceptions of party management and machine politics into his study of this early period. The abnormal features of present day politics had not then developed. The idea of a State Central Committee practically controlling the policies of the State did not then prevail. There was no conception of an all-powerful political "machine" in our modern sense—an inner organization whose interests are often, if not always antagonistic to those of the great party it is supposed to represent. The party system in this State at that time was the normal one. The two great parties held within their ranks practically all the people of the State. The voters in each party were in a real sense members of its organization. There was no organization apart from the great mass of voters. In fact it was their organization, and theirs alone. The committees were *their* representatives; the responsibilities of the campaign were *their* burden; and its success was *their* glory. To-day the situation is very different. The great mass of voters have very little to say in determining the policies of the parties; they have even less to say concerning their management. The importance of the individual voter, except as he counts on election day, has greatly diminished; the importance of the party manager has greatly increased.

The change that has taken place since the Civil War is illustrated by the difference in the manner of conducting the





campaigns. In the early days there were no attempts at regulating nominations by law. There was no primary system, and at first few party rules to be observed. For the first years anyone could stand as a candidate for any office to which he aspired. Later the parties succeeded almost entirely in preventing the candidacies of all except the party nominees. Independent candidates became exceptional. But during all the time the campaign methods were simplicity itself as compared with the complicated procedure of the present. The personal canvass made by the candidates was the principal means of stirring party enthusiasm and of influencing public opinion. A joint debate between rival candidates occasionally enlivened a campaign. No accurate knowledge of the party's strength could be ascertained before the election. Except the circular letters published in the newspapers the candidates made very little use of campaign literature. A speech was sometimes printed in pamphlet form, but this was rare. The public rally and newspaper were the most successful and the most common methods of reaching the people. The party committees filled a subordinate place in the early campaigns. Their principal work was to arrange for the necessary conventions; to prepare an occasional address to the people; and to assist the different communities in effecting their local organizations. The brunt of the battle was met by the candidates themselves, and the direction of the campaign was largely in their hands.

Later years have made it necessary to surround the making of nominations with legal restrictions. Nomination papers must be filed with the Secretary of State. The print-





ing and marking of ballots are regulated by law. Party rules have become many. It is no longer possible for any man to stand as a candidate. He must first gain the consent of the party managers, and then secure the approval of his party associates at their primary meetings. The part which the party managers now take in making nominations is very different from that which they took in the period under discussion. Then, the committees were simply the agents of the voters and had no more influence in determining the nomination of candidates than the rank and file. Now, through the influence of patronage, contributions for campaign expenses, allotment of campaign and public printing, the selection of places for the holding of conventions, and other means, the central committees are supreme, and have it in their power to secure the nomination of almost anyone whom they may wish to favor.

But the methods of conducting the campaign itself have also greatly changed. The personal work of the candidates is no longer the controlling factor in the campaign. Its supervision is entirely in the hands of the State committee. Vast sums of money are used each year to distribute great quantities of campaign literature, and to hire campaign speakers. Every ward and school district in the State has its committeeman, and through him a thorough canvass is made. In a few days' time the State committee can know the party preference of every voter in the State. The work progresses smoothly and quickly, each part of the machine doing its own work and contributing its full share to the final result. The influence of the machine is felt everywhere, and in fact is predominant in the politics of the State.





In this State, as in other States and in the nation as a whole, this predominance of the party managers—the bosses—furnishes the great problem in our politics. To some the party boss is the natural product of the party system. To others his existence is due to abnormal conditions and influences. To all his power is a source of danger and brings home to the student of present day politics the need of careful investigation into the source of this power—the party organization.

That the party organizations have rendered service of great value to the State and nation cannot be questioned. In the early days of the State, when communication was difficult and communities were jealous of one another, the party organizations did more than any other cause to prevent sectional feelings. They united the interests of the people and brought them together in a common purpose and a common task. And this influence has been at work ever since. The fact that the great Democratic party never became a sectional party during the dark days of the Rebellion, but remained in a true sense a national party, made the task of bringing the North and the South into genuine fellowship immeasurably easier than it otherwise would have been. That the party organizations have also fostered evils of the greatest consequence is equally true—a fact which only emphasizes the importance of the subject, and makes plain the duty of faithful study and a conscientious use of the facts discovered.

JOHN W. GANNAWAY

GRINNELL, IOWA





## LOCAL TRADITION

Sir William Jones, in his noble poem, *What Constitutes a State*, negatively exhausts the subject of statehood; but there is one positive factor in the problem of commonwealth making which is scarcely more than suggested in the poet's splendid dream. True, "men, high-minded men," must ever constitute the main element of strength in a state; but the poet names only one—and that the least important—of the two influences which together affect men in the aggregate, namely: "Sovereign law, the State's elected will." The other influence, more potent than statutes, too subtle to be confined in a body of laws, too elusive to be found by index, is the spirit which broods over community life and, without show of force, compels the representatives of communities and of the commonwealth to do or withhold, to approve, to hold in abeyance, or to condemn.

For want of a better term, we call this elusive, subtle, intangible, yet potent influence "Tradition"—not in the ordinary sense in which that term is used, not in the sense in which the folk-lorist uses it, but more nearly with the meaning which Paul conveyed in his exhortation to the Thessalonians that they hold the traditions which they had been taught.

To illustrate. One community has a theological tradition with its accompanying virtues and possibly its narrowing tendencies. Another has broadened out beyond mere dogma and in the process has retained all its original respect





and regard for religion but may have dangerously lapsed in its judgments as to conduct. In one community temperance means total abstinence; in another, it means moderate use. One community is healthfully public-spirited, scattering and yet increasing; another is wildly public-spirited, and bankrupt; in another the motto is "get and keep," and yet the prevailing tendency is to want, and the getters and keepers groan over "poor expenses." One aggregation of individuals and communities, called a State, in its influence upon the nation is repressive. Its favorite maxim is "the world is governed too much." Another, separated from the first by only an imaginary line, bases its political philosophy upon the lessons taught by the confederacy of 1777-81, out of the confessed weakness of which grew the national idea. One State accords to women every political and legal right which men enjoy; another carries Paul's admonition still further and lets the women keep silence in state as well as church affairs. In one State the sale of intoxicants as beverages is prohibited, on the ground that the greatest good to the greatest number is thereby subserved. Just over the line in another State, the licensed sale of liquor is everywhere sanctioned, and every assault upon the license system is regarded as an attack upon personal liberty. In every case the laws would be powerless but for that same rarely mentioned but generally felt and recognized tradition from which there would seem to be, and in a single lifetime there generally is, no successful appeal. The term "public opinion," though often used as a substitute for it, is not synonymous, for public opinion is but the latest indicator of a trend which has its beginning far back in the past.





In every instance there is a starting point of character and habits in the first settlers. Rough in manner and crude in habits of thought as many of these pioneers were of necessity, their potent spell is upon us; the strongest among us feel it, and the wisest, after a brush of experience, cease fighting it. Though these "rude forefathers of the hamlet" lived and died in ignorance, or scorn, of the Socratic method of reasoning with all the comparatively modern improvements, and enjoyed a sublime confidence in those rational instincts which we call intuitions, though we may pronounce their vision short and its range narrow, yet the product of their aggregated individual experiences as crystallized into tradition is in many instances as irresistible as dialect, or climate.

Hegel well terms this spirit "the latent germ of being," "the capacity or potentiality, striving to realize itself;" "not of such a nature as to be tossed to and fro amid the superficial clay of accidents, but rather the absolute arbiter of things."

The German philosopher ranges history under three heads: original history, reflective history, and philosophical history. But the reflective and the philosophical are only two phases of history's aftergrowth. The philosophy of history, with all kindred thought, is the leafing and flowering of original history. The common source of all systems of social philosophy is fact, and history is fact with generalization drawn therefrom.

We do well to turn again and again to the history of the Jews, the Greeks, the Romans, the Dutch, the Germans, the French, the English. But we cannot unqualifiedly apply





old-world experiences to new-world conditions. The genius of old-world institutions, the trend of old-world traditions, the very germs of old-world community life, are unlike ours. The statesman's, the historian's, the journalist's parallel, if not "deadly," is at least misleading and mischievous, unless it be explained away so thoroughly as to be no parallel at all.

Every people, every age, must be measured by itself alone. The closest comparisons are at most but remote approximations. Speaking with literal truth, they are not comparisons at all. Like rival lines of railroad, their general direction and destination are the same, but they wind in and out and cross each other, one tunneling where another goes round or climbs.

The wise philosopher of history, or student of social science, will also differentiate one community, or one group of communities from another. In fact, at every turn of original investigation into the condition of society as he finds it, and of states as they present themselves ready-made for his inspection and study, the historiographer, or the sociologist, is forced to establish and all along the line maintain close and reliable connection with the original sources of history, just as an invading army must establish and maintain connection with its base of supplies.

JOHNSON BRIGHAM

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## SOME PUBLICATIONS

*The Second Bank of the United States.* By RALPH C. H. CATTERALL. Chicago: The University of Chicago Press. 1903. Pp. xiv, 538.

Students of political and economic history have generally agreed that the failure to recharter the Second Bank of the United States was a serious mistake. The judgments of the student and of the man of public affairs may also coincide, but, even if they do, the bases of the two judgments are necessarily widely divergent. It is a violent tax upon the imagination to endeavor to conceive of Mr. Jackson as a student of history, politics, economics, or anything else. As a rule he did not possess one scintilla of accurate information upon any subject which he undertook to discuss. But Jackson was a man of practical affairs, and his opinions are entitled to respect on this basis. Unfortunately Jackson was the idolized leader of a vulgar and rampant democracy, flushed with victory and anxious to make use of the opportunity now offered for the first time. In spite of his rugged individuality Jackson was a creature of circumstances and the most interesting features of his administration are the points where he was compelled to offer reluctant testimony to this fact.

There were many who opposed the bank, some who supported it, very few who understood it and appreciated it. The presidential campaigns of 1832 and 1896 have many points in common. Even now it is doubtful whether a United States bank would receive support in a national referendum. It is easy to speak of Jackson's mistake, but the speaker would most likely follow in Jackson's footsteps if he were to try the experiment for himself under the same conditions.

Mr. Catterall's book on *The Second Bank of the United States* is eminently just in its treatment of Jackson in the light of his environ-





ment. The author believes, as all students believe, that Jackson made a mistake, but he does what never has been done before, he explains Jackson's mistake. The volume is a rare combination of the student's views with a most delicate appreciation of the circumstances of the time under discussion. Jackson was, even more than Jefferson, strongly predisposed to entertain feelings of violent animosity toward anything which he could not understand. It is Mr. Catterall's opinion that Jackson was hostile to the bank from the very start, and that the well known occurrences, which are so often recited as the original causes of Jackson's anti-bank feeling, simply contributed to develop a feeling already in existence. The democracy was opposed to the bank. Jackson was the leader of this democracy. The impulses of the mob coincided with the predilections of the President. Hence the war on the bank. This war may have been a blunder, but it was under the circumstances of the time inevitable.

Mr. Catterall's volume is the first real history of the bank. The need of such a volume was great, the opportunity presented itself, and the man was not lacking. It is seldom that the opportunity and the man are in such happy accord. The book is full of the marks of superior scholarship, but nowhere is the evidence of the capacity for original research more clearly shown than in the treatment of Nicholas Biddle's letters and official papers which, for the most part, see the light for the first time in this volume. Much light is thrown upon the history of the bank, but it is not flashed in the eyes of the reader in the offensive manner only too common among some, who mar their discovery of real truth by the unpleasant panorama of the discoverer.

Another feature of the work, which is especially noteworthy, is the fact that the author is equally at home in the realms of political history and economics. The author has mastered the principles of public finance. The chapters which deal with the technicalities of the bank are fully up to the high level of the chapters on the bank's political history. This feature is more exceptional than it ought to





be. There is still something to be said for the old-fashioned combination of history and economics.

The volume shows the results of the most painstaking research. Still more does it show the capacity to make judicious use of such results. The author was gradually bringing this work to completion during a period of nearly ten years. The final outcome is a new departure in the study of the Jacksonian period in United States history. A new view is given of the mutual relations of Jackson, Biddle, and Clay.

The general effect of the volume is greatly enhanced by a good index, by a bibliography which, in spite of its disclaimer of completeness, is far more exhaustive than any other on this period, and by foot notes so full and frequent that the reader is able, if he so wishes, to follow every step which the author has taken. The press work on the volume is highly satisfactory. It is seldom that a volume appears, among the numerous contributions to American history, which exhibits so many points of excellence and so few defects.

WILLIAM CRAIG WILCOX

THE STATE UNIVERSITY OF IOWA  
IOWA CITY

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*A Beautiful Life and its Associations.* By ANNA HOWELL CLARKSON. Illustrated. Autograph Edition. New York: Under the auspices of the Historical Department of Iowa. 1903. Pp. 217.

This is a story of a rarely interesting personality. The subject, Mrs. Drusilla Allen Stoddard, was born eighty-two years ago in Western New York, and grew to womanhood under pioneer conditions. These developed in her resourcefulness and self-reliance, and with her heritage of good ancestry, good health, and keen intellect made her the power for good which she has been and still is in the world. Her final training in Mrs. Willard's famous school for girls at Troy was followed by her marriage in 1847 to the Rev. Ira Joy Stoddard and departure with him to their mission field in India. Of





their successful work there, this short notice cannot speak. Because of Mr. Stoddard's ill health, they came back with their three children nine years later, and soon after—in 1858—Mrs. Stoddard was called to the principalship of the Ladies' Department of the newly organized Central College at Pella, Iowa. This is a Baptist school—one of the oldest denominational schools in the State—and to this faith—her husband's—Mrs. Stoddard was converted, though born and brought up a Quaker. Here she labored for nearly twenty years except when, in 1866, Mr. Stoddard's health being reestablished, the call of India was too strong to be resisted and they went back for three years more.

Returning, she took up her college work again. She taught—and she was a most admirable teacher—but the greater value of her work lay in what she was, in every way, to “my girls,” as she fondly called them. Coming, as many of them did, from country or small village homes and narrow circumstances, this cultivated, gracious woman was a revelation to them. Health, morals, manners, religious training, all came within her province, and scores of letters from former pupils bear grateful testimony to what they gained from her care. Nor from girls alone. Men of high station write from various parts of the country in appreciation of her work in the class room and of the charming hospitality of her home.

Mrs. Clarkson has given a most life-like portrayal of Mrs. Stoddard's character and work, and her book is further enriched by sketches of the other women and men whose self-sacrificing labors made Central College what it is. The roll is too long to be called here, but their names live in the hearts of the men and women they trained. And in these days of ready-made universities and million (or more) dollar donations to them one wonders if, after all, there isn't much to be said in favor of the small colleges whose beginning and growth through prayer and toil and sacrifice impress upon their pupils the feeling that these, more than money, are the true values.

CELIA A. M. CURRIER

IOWA CITY, IOWA





*Actual Government as Applied under American Conditions.* By ALBERT BUSHNELL HART. New York: Longmans, Green & Co. 1903. Pp. xlv, 599.

This is, perhaps, the best general work on American government which has appeared since James Bryce wrote *The American Commonwealth*. It is quite readable; but one does not get the impression that its pages are simply printed "talks" or reprinted magazine essays. It is filled with details and statistics; and yet it does not read like an encyclopedia of political facts or the report of a government bureau. It contains hundreds of references without being a bibliographical wilderness. Although the volume is designed by its author as a text for upper high-schools and colleges, it is certainly more than a "text-book." It is a plain, simple, coherent description of both the organization and the functions of American government.

Perhaps the most questionable statement in the whole book is where the author, in the opening sentence of the preface, remarks generously enough that there are already "many clear, well-thought, and accurate text-books upon the government of the United States."

In writing *Actual Government* Professor Hart has five points of view which are clearly set out in the preface. "First of all, the American governmental system should be treated as a whole: state government and the various phases of local government should come in, not as after thoughts to the national system, but as integral parts of one American government. The second necessity is to study the actual workings of government: the text of constitutions and of statutes is only the enveloping husk; the real kernel is that personal interest and personal action which vitalizes the government.....

In the third place, a thorough text-book must discuss not only the machinery of government but the operations of government; legislatures do not exist simply to be investigated by students, but to express the public will that things be done; the functions of government—such as the administration of justice, taxation, expenditure, transportation, the maintenance of order—are more important than the details of governmental organization. .... In the fourth





place the historical part of the book is not separated out from the descriptive." Finally, Prof. Hart deems it proper "to prefix a bibliography of the subject, as well as to insert classified references at the heads of the chapters."

BENJ. F. SHAMBAUGH

THE STATE UNIVERSITY OF IOWA  
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*The Organization and Control of Industrial Corporations.* By FRANK EDWARD HORACK. Philadelphia: C. F. Taylor. Equity Series Vol. V, No. 4. University Edition, January, 1903. Regular Edition, July, 1903. Pp. 207.

Probably no subject before the American people today is receiving more discussion combined with as little clearness and understanding as the subject of industrial corporations. As the author suggests this is because these corporations affect us so vitally in their every action and because their life as it exists at the present time is so shielded by secrecy of administration. A necessity to the development of our economic life, they have been granted every freedom only to become a menace and peril. The recognition of the menace on the part of the people and the readiness with which the political parties have taken up the subject endangers the cool study and settlement of the question; and in view of this fact the present study is the more interesting.

Dr. Horack has very wisely limited himself to the legal and political phase of his study. It has been merely "to ascertain if the cry of 'more publicity' is warranted by the facts." A summary of the chapters will perhaps show how well he has followed his purpose. The introduction deals with the nature of a corporation and with the source and development of corporation law. Chapter two compares the various States with reference to the publicity and control of the organization of corporations. Chapter three deals exclusively with publicity, examines into its nature and content, discusses public and private publicity and draws some interesting comparisons by referring





to publicity in England, France, and Germany. Chapter four, on the nature and status of foreign corporations gets to the heart of the matter by pointing out the fact that comparatively few corporations do business exclusively in the State in which they are organized, and very many, in fact the great majority, do no business in their own State. The necessary evils resulting from such impossibility to control and the competition on the part of States to secure the revenue from such organizations should become as notorious as the North Dakota divorce laws. In chapter five, the author occupies only six pages in drawing up his conclusions which are moderate and modestly, if decisively, stated.

Dr. Horack contends "that the present industrial development has outgrown the legislation enacted for its regulation when industries were comparatively localized and that the granting of charters 'for revenue only' has not been and can not be productive of a sound legal system. More publicity of organization and management is necessary," and such publicity can best be secured by legislation which shall "be national in extent and uniform throughout the United States. This can be obtained and made efficient only by giving Congress power to create and dissolve corporations carrying on interstate trade, commerce or business." The State, if it stands true to its real end, must look out for the welfare of its people, and in so doing must insist that all fraudulent organizations be brought to account. The impossibility of our States to secure protection against corporations imposes upon the United States the great fundamental duty, and if our Constitution does not grant Congress such power, it ought so to do.

The book is a timely product of fertile thought produced by a careful and long continued study of a subject difficult to handle, and is to be commended for its simplicity and directness and for its practical method of attacking the question.

HARRY G. PLUM

THE STATE UNIVERSITY OF IOWA

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*Proceedings of the Iowa Park and Forestry Association.* Second Annual Meeting, Des Moines, Iowa. December 8, 9, 10, 1902. Iowa City, Iowa: Published by the Association. 1903. Pp. xv, 143.

So runs the title page of a unique publication just from the press. A cursory glance through its pages reveals much interesting matter which readily fascinates the reader who is in any way enthusiastic about trees, shrubs, or flowers.

On November 16, 1901, fourteen kindred spirits met at Ames and perfected an organization to be known as The Iowa Park and Forestry Association. The objects of such association as stated in the constitution then adopted were: "to create an interest in, and to encourage the establishment of parks; the beautifying of our cities, the better care of cemeteries, the planting of trees in country homes for æsthetic purposes as well as for the supply of timber for commerce; the proper utilization of our remaining timber, and to assist in the inauguration of rational methods of forest management and thus help in the protection of our wild game and song birds; the creation of one or more State parks in the vicinity of our lakes and streams; to encourage State and national legislation for rational forest management, and the creation of more forest reserves." The first officers were Prof. T. H. Macbride, president; Wesley Greene, vice-president; Prof. L. H. Pammel, secretary; Silas Wilson, treasurer; and C. A. Mosier, Prof. H. C. Price, and Geo. H. Van Houten members of the executive board. The other charter members were J. L. Budd, A. T. Erwin, A. Hoffman, E. E. Little, G. F. Parker, J. Sexton, and W. F. Thompson. The next meeting which is known as the first annual meeting was held at Des Moines, December 10 and 11, 1901, when the membership was more than doubled. The papers presented at this meeting were published in a neat illustrated pamphlet of 80 pages.

In the volume of the proceedings of the second annual meeting Prof. Macbride in his presidential address felicitates on the present status of Iowa parks; Prof. Pammel writes on the progress of for-





estry in the United States during the past year; H. C. Price gives his idea on forestry and its effect on western climate; Prof. J. B. Weems investigated dendro-chemistry; E. R. Hodson writes instructively on the farm wood-lot; A. T. Erwin idealizes on evergreens for wind-breaks; Wm. H. Mast notes the progress of forestry and the work of the bureau in Iowa; Franklin Brown gives the advantages of the soft maple for the farmer's wood-lot; C. A. Mosier shows his enthusiasm for trees and notes with displeasure the passing of the forests and the past poor policy of the government; Elmer M. Reeves studies the red cedar; J. C. Blumer gives the experience of the government in forest planting in the sandhills of Nebraska; Prof. B. Shimek contributes an entertaining article on the Iowa oaks; Eugene Secor gives a readable article on one of Iowa's beauty spots, a noted landscape view near Forest City, Iowa; Charlotte M. King states what ought to be done in forest preservation in Iowa; Frank H. Nutter gives directions for parks and public grounds for small cities; G. H. Van Houten writes on community and individual effort in tree planting; Henry Lau entertains us with hardy shrubs and herbaceous plants; D. L. Sheldon gives civic improvement for small cities; J. T. D. Fulmer gives a short essay on city parks; Albert Duebendorfer contrasts the elm and other shade trees; E. E. Little shows the advantages of the beautifying and utilizing of railroad grounds; and W. A. Burnap closes with sensible advice on street trees and parkings.

The book is well edited, the articles are all good, the paper and press work, save the illustrations, some of which are not clear, are all that need be desired. The publication as a whole reflects credit upon the organization which sends it forth.

T. J. FITZPATRICK

IOWA CITY, IOWA





*The Political Ideas of Modern Japan.* By KARL KIYOSHI KAWAKAMI. Iowa City: The University of Iowa Press. 1903. Studies in Sociology, Economics, Politics, and History. Vol. II, No. 2. Pp. 208.

Mr. Kawakami's study of the *Political Ideas of Modern Japan* was prepared and submitted as a master's thesis in the Department of Political Science of the State University of Iowa during his incumbency of a fellowship in the Iowa School of Political and Social Science in the academic year 1901-02. It may safely be recommended to the general reader as well as to the special student as an attractive and original presentation of the manner in which "western political ideas have been developed in Japan, what ideas have been accepted, modified, discarded, or misunderstood, and whether these ideas have had a wholesome or unwholesome growth" (Preface, p. vi).

In sketching the origin of the Japanese nation Mr. Kawakami ventures to state some reasons for believing that the Japanese people have an intermixture of Aryan blood. He maintains, however, that the Japanese are predominantly oriental and that they are destined to be the dominant power in the forward movement of the Orient. The author is particularly happy in his lucid explanation of the contact of the eastern mind with western thought and his clear-sighted delineation of the influence of religions upon the development of political ideas in Japan.

This study has secured the distinction of being reprinted in Japan within four months after its publication by the State University of Iowa. The Japanese edition, which contains an "editor's note" by Isoh Yamagata, is published at Tokyo by the proprietor of the *Shokwaabo*.

ISAAC A. LOOS

THE STATE UNIVERSITY OF IOWA  
IOWA CITY





*Early Political Machinery in the United States.* By GEORGE D. LUETSCHER. Philadelphia. 1903. Pp. 160.

This very interesting and valuable monograph was presented to the faculty of Philosophy of the University of Pennsylvania in partial fulfillment of the requirements of that University for the degree of Doctor of Philosophy. Through its publication Dr. Luetscher has made a valuable contribution to the early history of political parties in the United States. Dealing with the period of their organization at the close of Washington's administration, when property qualifications for suffrage disfranchised more than one-half of the male population above twenty-one years of age, he carefully traces the abolition of these qualifications, the formation of new election districts, and the consequent increase in the ballots cast.

The origin and workings of the Democratic societies as an opposition party to the Federalists is perhaps the most interesting chapter. Dr. Luetscher's thesis deals with a subject that is most difficult to treat for the period covered. The paucity of material, such as official election returns, has given the author the laborious task of searching the newspaper files of this period. Four well constructed maps giving a graphic representation of the encroachment of the Republican party upon the Federal area from 1788 to 1804 add much to the value of the monograph.

FRANK EDWARD HORACK

THE STATE UNIVERSITY OF IOWA  
IOWA CITY

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*Democracy and the Organization of Political Parties.* By M. OSTROGORSKI. Translated from the French by Frederick Clarke. Preface by the Right Honorable James Bryce. New York: The Macmillan Co. 1902. Vols. I, II. Pp. lviii, xliii, 627, 793.

It is clearly evident that the emphasis in the study of what James Bryce says "is beginning to be called political science" has shifted from a consideration of the *organization* of government to a dis-





cussion of the *administration* and the actual *workings* of government. Thus, the study of this new science of Politics enters upon a third stage of development.

The first stage was characterized by the predominance of the historical. Indeed so strongly was the emphasis placed upon the history of government by such men as Freeman, Stubbs, and Seeley, that the motto of students of political science for a time was: "History is past Politics, and Politics is present History."

The history of government proved to be a fertile field for political investigation. Nevertheless it was not long before the chief interest in the study of Political Science shifted from the *history* of government to the *organization* of government. The study of political organization through Comparative Constitutional Law represents the second stage in the recent development of Political Science. Burgess, Boutmy, Dicey, and Cooley are typical exponents of this second stage. To the third stage, which is characterized by literature on *administration* and *political parties*, belongs the work of M. Ostrogorski.

*Democracy and Political Parties* is a work to which M. Ostrogorski has devoted fifteen years of labor. In his research he did not avoid libraries and ignore the documents, but owing to the nature of the investigation he gathered the greater part of his materials from real life. Here he investigated minutely the workings of democratic government. It is upon political forces rather than upon political forms that he dwells throughout the two volumes; and he is convinced that "the best way to study political forces is to study political methods." He says that to really understand the character of social action, its modes of procedure must be studied in the light of the character of those who apply them, and of the social and political conditions in which their wills are formed and manifested. It is only in this sense that the investigation of political methods will have, in addition to a philosophical value, a genuine practical value. It is a study of the methods of democratic government conceived in this spirit, a study of social and political psychology, based on





observation, that I have tried to undertake, and it is that which is the aim of this book."

M. Ostrogorski's field of observation is England and the United States. And so volume one is devoted to political parties in England, while volume two considers American phenomena. In his preface Mr. Bryce mildly protests against the gloom with which the author depicts the "Caucus" in England. It remains for American students to enter a similar protest against the unquestionable pessimism which fills the second volume. But it must be said that, notwithstanding his gloomy picture, M. Ostrogorski has given us a singularly careful and intelligent account of our political methods.

This work on *Democracy and Political Parties* is one that should be found in every library which aims to collect political literature. For students of political parties it is the most valuable book which has yet appeared. It has throughout a tone of moral earnestness which adds not a little to its merits.

BENJ. F. SHAMBAUGH

THE STATE UNIVERSITY OF IOWA

IOWA CITY

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*Campaigns and Battles of the Twelfth Regiment Iowa Veteran Volunteer Infantry, from Organization, September, 1861, to Muster-out, January 20, 1866.* By Major DAVID W. REED. Evanston, Ill.

The author of this life of a regiment, covering more than four years of active service in the Civil War, is fortunate in having been, from beginning to end, part of that life. He is further fortunate in having been, for several years past, Secretary of the Shiloh National Military Park Commission, which has put him in close touch with prominent military men on both sides and has given him free access to official records.

The author's style is strictly narrative but with sufficient "incident" to fix attention and enliven the story. Official documents are used sparingly but sufficiently. Fifty pages are given to the battle





of Shiloh, for the purpose of correcting history and doing justice to men and regiments, suffering for more than forty years the injustice of misrepresentation and falsehood. There is extant but one other as full and complete account of that important battle as is given in this history, and that account, just published by the Government, is by the same author under the title, *The Battle of Shiloh and the Organizations Engaged*. Major Reed is the best living authority on that battle.

Another important battle fully described is that of Nashville, in which the Twelfth took an active part, though it went into the fight without a single commissioned company officer in command. Every company was commanded by the ranking sergeant.

The author tells us that the Twelfth threw away its knapsacks within a month after going into the field, and that it was ever after in "light marching order;" that it was never called upon to do garrison duty or provost-guard duty; that it never had a dress coat on its back or white gloves on its hands—its "best" coat was the regulation "fatigue blouse." As a specimen of active service, it is stated that the regiment, in two and one-half months, in 1864, covered by steamboat 722 miles, by rail 50 miles, and in marching 950 miles. On election day of that year (Nov. 8, 1864) the regiment waded Osage river, in Missouri, waist-deep in ice-cold water, then halted upon the bank to vote for President of the United States. There were cast 210 votes—Lincoln, 190; McClellan, 20.

The regiment has to its credit seventeen pitched battles and twelve skirmishes, and it was never repulsed. The story of its life is plainly but simply and admirably told, though the work is marred by poor proof-reading. There are two elaborate maps of the field of Shiloh and several illustrations.

The edition is limited to 500 copies, is not copyrighted, is privately printed, and is sold at the actual cost of printing (\$2.00).

JOSEPH W. RICH

IOWA CITY, IOWA





The 4th volume of *The Messages and Proclamations of the Governors of Iowa*, which is now in press, will cover the administrations of John Henry Packer and Warren R. Sherman. The volume will appear in the series of legislative documents for 1904.

## NOTES AND COMMENT

In September (1903) the *Twenty-fourth Biennial Report of the State Historical Society of Iowa* was submitted to the Governor of the State. This report contains: (1) an historical sketch of the Society; (2) a statement relative to the organization of the Society; (3) the names of the officers and members; (4) a financial statement; (5) an account of publications; (6) a statement relative to the library; and (7) recommendations for additional support. The whole report will be printed by the State, and in due time may be found in the series of legislative documents for 1904.

Mr. Harold M. Bowman, writer of the article contained in this number of THE IOWA JOURNAL OF HISTORY AND POLITICS on *Problems in the Administration of Iowa* is the author of a monograph entitled *The Administration of Iowa, A Study in Centralization*. The problems cursorily reviewed in the article, and others, are examined in detail in the monograph, where full references to sources are given. A number of practical suggestions for alteration in administrative organization and practice are also incorporated. The Macmillan Company, New York, announce that the monograph will be published in October, as Number 1 of Volume XVIII of the *Columbia Studies in History, Economics, and Public Law*. Copies are to be obtained from the Macmillan Company, or from Professor E. R. A. Seligman, Columbia University, New York.

The fourth volume of *The Messages and Proclamations of the Governors of Iowa*, which has just been issued by the State Historical Society of Iowa, contains the messages and proclamations of Governor Cyrus Clay Carpenter (1872-1876), Governor Samuel Jordan Kirkwood (third term, 1876-1877), and Governor Joshua Giddings Newbold (1877-1878). This volume contains about four hundred pages.





The fifth volume of *The Messages and Proclamations of the Governors of Iowa*, which is now in press, will cover the administrations of John Henry Gear and Buren R. Sherman. The volume will appear in December, 1903.

A very commendable undertaking is the Semi-Centennial Anniversary of the Founding of Grinnell (Iowa), which is to be celebrated on May 18, 1904. Appropriate exercises have been arranged for that day. The whole matter is in the hands of a general committee, which has held several meetings and adopted general plans. Among other things, the committee has named persons to prepare papers on the different phases of the local history of the town of Grinnell. These papers are to be permanently preserved as historical records in the Stewart library. It is hoped that other towns and cities will follow the example of Grinnell.

Dr. Duren J. H. Ward has recently investigated a number of Iowa mounds. Some of the results of his work will probably be published in the January, 1904, number of the IOWA JOURNAL OF HISTORY AND POLITICS.

In an editorial in the March-April, 1903, *American Antiquarian* an attempt is made "to so describe the relics which have been discovered in the various portions of the Mississippi Valley, that the reader may discover the unity and diversity which has prevailed among the prehistoric populations, and gain a picture of the condition of each particular district in prehistoric times."

The program for 1903-1904 of the Pilgrim Chapter (Iowa City, Iowa) of the Daughters of the American Revolution contains a lecture on *Early Iowa*.

Chapter "E" of the P. E. O. (Iowa City, Iowa) has arranged a program of *Studies in the History of Iowa*. The titles of the papers as announced on the printed program for 1903-1904 are as follows: (1) Life Among the Pioneers; (2) The Claim Laws; (3) The Territorial





Governors; (4) The Constitutions of 1844-46, and Admission into the Union; (5) The Capitals of Iowa; (6) James Wilson Grimes, the Opponent of Slavery; (7) Samuel Jordan Kirkwood, the War Governor; (8) Iowa Indians; (9) Black Hawk and Keokuk; (10) the Spirit Lake Massacre; (11) The Indian Reservation at Tama; (12) Old John Brown in Iowa; (13) The Iowa Band; (14) The Mormons in Iowa; (15) The Colonies of Iowa; (16) Iowa's Contribution to Literature; (17) Iowa's Contribution to Art; (18) Iowa of To-day. At the opening meeting on September 25, Dr. B. F. Shambaugh gave an address on *The Opening of Iowa*.

The legislature of the State of Missouri appropriated \$5,000 for the use of the State Historical Society of Missouri for the current biennial period.

*The Proceedings of the New Hampshire Historical Society*, from June 1899 to June 1902, being Pt. I of Vol. IV of the series, has recently been published and distributed by the Society. The chief contributions in this part are: (1) *The Capture of Fort William and Mary*, by Prof. Charles L. Parsons; (2) *The Life and Character of Bishop Carlton Chase*, by the Rt. Rev. W. W. Niles; (3) *Nathan Lord*, by Professor John K. Lord; (4) *The Scotch-Irish and Irish Presbyterian Settlers of New Hampshire*, by Hon. Gordon Woodbury.

It is gratifying to learn that the Abigail Adams Chapter of the Daughters of the American Revolution has decided to devote the year to marking the site of the old Ft. Des Moines.

"The old pioneer days are gone, with their roughness and their hardship, their incredible toil and their wild half-savage romance. But the need for the pioneer virtues remains the same as ever. The peculiar frontier conditions have vanished; but the manliness and stalwart hardihood of the frontiersmen can be given even freer scope under the conditions surrounding the complex industrialism of the present day."—Pres. Roosevelt in St. Louis address, April 30, 1903.





At the encampment of the Iowa Department of the Grand Army of the Republic, which was held at Cedar Rapids in May, 1903, the following were among the resolutions passed:

That we commend to the Governor and General Assembly of Iowa and to our delegation in Congress, the justice of placing at an early date suitable memorial statues of Iowa's colossal old war Governor, Samuel J. Kirkwood, in the capitols at Des Moines and Washington.

That a committee on legislation be appointed by this department to secure the early adoption of a law providing for the preparation and publication of a complete and permanent personal register, by military organizations, of all Iowa soldiers in the Civil War, also of all other resident veterans, and such other legislation as will give veterans preferred rights in official positions, and secure justice to all survivors of the great war, and promote the interests of this department.

Six lectures on *The Industrial Revolution* have been scheduled for the extension course at Cedar Rapids, Iowa, for January and February, 1904. The lectures will be given by Professor Isaac A. Loos who is a member of the Board of Curators and Vice-President of the State Historical Society of Iowa.

Professor Jesse Macy of Iowa College, Grinnell, Iowa, has been granted a leave of absence and will spend the year in Washington, D. C.

A *Beardshear Memorial Volume* has been announced. The object of the committee having charge of the volume is to produce a book which will contain some of the best things which the late Dr. Beardshear, President of the State Agricultural College at Ames, Iowa, produced during his active career in Iowa. Subscribers will be charged one dollar for the volume. Mr. Herman Knapp, Ames, Iowa, has charge of the subscription list.

The Ohio State Archæological and Historical Society has recently issued an index "supplement to vol. xi," which covers the subjects and contents of the first ten volumes of the "annual publications" of the Society and the July and October numbers of the *Ohio Archæological and Historical Quarterly*.





To the April number of the *Iowa Medical Journal*, Professor F. I. Herriott contributed an article on *Death Returns in Iowa's Cities and the Profession*. This was followed in the May and April numbers by articles on *Vital Statistics*.

The State Historical Society of Iowa has received from Mr. J. W. Dean, of Chapel Hill, Missouri, files of New York and Missouri newspapers of the early part of the 19th century.

In the *Annals of Iowa* for April, 1903, there are two interesting articles which contain reminiscences of pioneer life. These are *Coming into Iowa in 1837*, by George C. Duffield, and *Pioneer Protection from Horse Thieves*, by James E. Parker. *An Iowa Fugitive Slave Case* is a reprint of a pamphlet published by George Frazee. It contains a full report of a fugitive slave case which was heard and decided in the District Court of the United States for the southern district of Iowa in 1850. The July *Annals* contains an article by Charles A. Clark on *Indians of Iowa*, an account of the *Icarian Community*, by Charles Gray, a biographical sketch of the Rev. J. A. M. Pelamourgues, by Rev. J. F. Kempker, and a discussion of *Publicity in our Local Finance*, by Dr. F. I. Herriott.

A valuable contribution to State history is Dr. Charles Clinton Weaver's monograph on *Internal Improvements in North Carolina Previous to 1860*, which appears as numbers 3 and 4 of Series XXI of the *John Hopkins University Studies in Historical and Political Science*.

Several important additions have recently been made to the library of the State Historical Society of Iowa. Among the most valuable are 294 volumes of laws of the Northwest Territory, Ohio, Michigan, and Indiana. Other accessions are State publications of Pennsylvania and Alabama received from the Pennsylvania State Library and the Alabama Department of Archives and History, and 92 volumes of Ohio State publications.

An unusually interesting and valuable article on *Chancellor Kent* appears in the April number of the *Columbia Law Review*. The





author of this article is John F. Dillon, formerly of the Iowa bar and at one time Chief Justice of the Supreme Court of Iowa. In comparing Kent and Marshall the author says:

"The two great figures eminent over all in our early constitutional, judicial and legal history are those of John Marshall and James Kent. I said early history, and this is true; and it is largely true that their pre-eminence remains down to the present:. . . . .

Chancellor Kent has as strong a title as Chief Justice Marshall to the professional and public regard, gratitude and veneration for his genius, character and labors. Marshall's field was the development of the Constitution of the United States; Kent's was the field of general jurisprudence, and in this he rendered services, throughout a judicial career extending from 1798 to 1823, which are inferior in value and importance to Marshall's only, if at all, because the development and adaptation of the system of jurisprudence from the English principles and models may be regarded as less vital and important than the work of expounding and developing the principles of the Constitution of the Union."

Professor W. C. Wilcox, member of the Board of Curators of the State Historical Society of Iowa, is scheduled to give university extension lectures as follows: *The Six Great Powers and the Eastern Question*, Clear Lake, Iowa, Oct. 2, 1903; *The Possible Solutions of the Eastern Question*, Clear Lake, Iowa, Oct. 16, 1903; *The Struggle for Race Supremacy*, Garner, Iowa, Oct. 3, 1903; *The Crisis in the Inevitable Conflict*, Garner, Iowa, Oct. 15, 1903; *The Manifest Destiny of the United States*, Marshalltown, Iowa, Dec. 10, 1903; *Henry Clay, the Leader of the Whig Party*, Morrison, Ill., Oct. 9, 1903; *Daniel Webster, the Expounder of the Constitution*, Morrison, Ill., Oct. 23, 1903; *Stephen A. Douglas, the Advocate of Squatter Sovereignty*, Morrison, Ill., Nov. 6, 1903; *Horace Greeley, the Prince of American Journalism*, Morrison, Ill., Nov. 20, 1903; *Samuel J. Tilden, the Statesman of the Democratic Party*, Morrison, Ill., Dec. 4, 1903; *James G. Blaine, the Statesman of the Republican Party*, Morrison, Ill., Dec. 18, 1903; *The History of the Eastern Question*, Davenport, Iowa, Oct. 10, 1903; *The Eastern Question in Europe*, Davenport, Iowa, Oct. 24, 1903; *The Eastern Question in Asia*, Davenport, Iowa, Nov. 7, 1903; *The Eastern Question in Africa*,





Davenport, Iowa, Nov. 21, 1903; *The Six Great Powers and the Eastern Question*, Davenport, Iowa, Dec. 5, 1903; *The Possible Solutions of the Eastern Question*, Davenport, Iowa, Dec. 19, 1903.

*The Work of the State Historical Society of Iowa* is the subject of a paper on the program of the Marshalltown meeting of the Iowa Library Association.

A contribution to comparative State legislation has recently appeared in a monograph on *The Organization and Control of Industrial Corporations* by Dr. F. E. Horack, the Secretary of the State Historical Society of Iowa.

In all probability there will be in connection with the Iowa exhibit at the St. Louis Exposition some representation of the contributions made by Iowa to local and State history. The Iowa Commission now have the matter under advisement.

Mr. Barry Gilbert, who has recently been appointed Professor of Law in the Law College of the State University of Iowa, was born in Cairo, Illinois, May 16, 1876. He is a graduate of both the College of Liberal Arts and the School of Law of Northwestern University; and he has practiced law in Cedar Rapids, Iowa. Mr. Gilbert has contributed the following articles: (1) *Law of the Independent Contractor in Illinois*; (2) *The Law of Track Elevation in Iowa*; and (3) *Right of Asylum in U. S. Legations*.

The grave of Timothy Brown, a soldier of the American Revolution, has recently been located at Washington, Iowa. The remains have been removed and are in the custody of "The Timothy Brown American Revolution Memorial Association." This memorial association now proposes to erect a suitable monument to the memory of the Revolution patriot. The work of marking the graves of soldiers of the Revolution buried in Iowa has been very much encouraged by the Sons of the American Revolution and by the Daughters of the American Revolution in the State.





D. Appleton & Co. have recently published a volume of 387 pages on *Trust Finance—a Study of the Genesis, Organization, and Management of Industrial Corporations*. The author is Dr. Edward S. Meade of the University of Pennsylvania.

During the biennial period from July 1, 1901, to June 30, 1903, approximately 4,149 volumes have been added to the library of the State Historical Society of Iowa. Of this number 3,484 were obtained through gift and exchange, and 665 through purchase.

Volume I of *Collections of the Illinois State Historical Library* has recently been issued by the Board of Trustees. The book, which is edited and annotated by Hiram W. Beckwith, President of the Board, contains documents and papers relative to the early history of Illinois and the Northwest.

Mr. T. J. Fitzpatrick has resigned his position in the Iowa City High School to accept the editorship of the *Estherville Enterprise*. His *Bibliography of the Scientific Literature of Iowa*, which will make a pamphlet of about 200 pages, will soon be published by the State Historical Society of Iowa.

On September 17, 1903, a monument, erected and dedicated to the memory of Charles Shepherd, a soldier of the Revolutionary War, was unveiled at Mt. Pleasant, Iowa. The inscription on the monument reads: "Charles Shepherd, a Soldier of the Revolution. Born Dec. 25, 1763. Died Sept. 1845. Served four years five and one-half months. Was in the Battles of Brandywine and Germantown. Was buried on the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 17, Twp. 72 N. R. 7 W. Erected by the State of Iowa aided by McFarland Post, G. A. R. and the D. A. R. Pro Patria Dulce Et Decorum Est." The special appropriation made by the Twenty-ninth General Assembly of Iowa for the purpose of erecting this monument amounted to five hundred dollars.





Miss Harriet Wood, a member of the State Historical Society of Iowa, has gone from the library of the State University of Iowa to Cedar Rapids, Iowa, to take charge of the public library at that place.

In his *Company B of Davenport* Mr. George Cram Cook has contributed an unusually interesting and readable volume of 142 pages. It was printed in 1899 for Company B by the Davenport Democrat Co., Davenport, Iowa.

The following letter by Abraham Lincoln, which was published for the first time in the January, 1903, number of the *Pennsylvania Magazine*, has an interesting bearing upon the political history of Iowa.

HENRY O'CONNER, Esq.,

SPRINGFIELD, Sept. 14, 1856.

Muscatine, Iowa.

Dear Sir:

Yours, inviting me to attend a mass meeting on the 23rd inst is received. It would be very pleasant to shake hands with the Fremonters of Iowa, who have led the van so splendidly, in this grand charge which we hope and believe will end in a most glorious victory—All thanks, all honor to Iowa!! But Iowa is out of all danger, and it is no time for us, when the battle still rages, to pay holy-day visits to Iowa—I am sure you will excuse me for remaining in Illinois, where much hard work is still to be done—

Yours very truly

A. LINCOLN.

The following is the letter of acceptance written by James W. Grimes on the occasion of his election to the office of President of the State Historical Society of Iowa in 1857. Mr. Grimes was the first President of this Society.

IOWA CITY, Feb. 28th, 1857.

My dear Sir:—

I have received your note informing me that I have been elected President of the Iowa State Historical Society.

I accept the position which the partiality of the Society has assigned to me.

It will be my pleasure, as I believe it will be my duty, to do whatever may be in my power to promote the objects of the association.

Your obdt servt

REV. C. BILLINGS SMITH

JAMES W. GRIMES.

Secty. &c



## CONTRIBUTORS

**HAROLD MARTIN BOWMAN.** Member of the bar. Born in Des Moines, Iowa, January 17, 1876. From the University of Michigan he received the degree LL. B. in 1899, and A. M. in 1901. During the year 1902-1903 he was University Fellow in Administrative Law at Columbia University, New York. Author of *Iowa Board of Control*, and *The Administration of Iowa, A Study in Centralization*. Compiler, for the Interstate Commerce Commission, of *A Twelve-Year Survey of State Railroad Taxation*.

**EMLIN McCLAIN.** One of the Justices of the Supreme Court of Iowa. Born in Salem, Ohio, November 26, 1851. Graduated from the State University of Iowa. He was Chancellor of the Law Department of the State University of Iowa from 1890 to 1901. Author of *Digest of Iowa Reports; Annotated Code and Statutes of Iowa* (1888); *Criminal Law; Cases on the Law of Carriers; Cases on Constitutional Law; Article on Carriers in Cyclopedia of Law and Procedure; etc.*

**JOHN W. GANNAWAY.** Fellow in Political Science, University of Wisconsin, Madison. Born at Pleasant Grove in Des Moines County, Iowa, in 1877. Graduated from Iowa College in 1902. Received the degree of Master of Arts from Iowa College in 1903.

**JOHNSON BRIGHAM.** State Librarian for Iowa. Des Moines. (See IOWA JOURNAL OF HISTORY AND POLITICS for Jan., 1903).





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